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OBSERVATIONS  
ON THE  
LAND REVENUE  
OF THE  
CROWN.

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L O N D O N:  
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## P R E F A C E.

**T**HE following Observations were not originally intended for publication ; the materials from which they were drawn were collected at different periods between the years 1775 and 1780.

In the latter of these years, the attention of the Parliament and of the Public being drawn to the consideration of the Land Revenue, by Mr. Burke's famous speech on the reformation of the civil and other establishments, the Author resolved to arrange his thoughts on this subject, which occasioned the composition of this Treatise in the year 1781.

Still, however, the Author had no intention of publishing these Remarks ; conceiving that they might possibly not be deemed a proper subject of public discussion, as the management of the Land Revenue was continued in the Crown, though  
he

the profit of it was given up to the aggregate fund, by the civil list act, on his Majesty's accession.

But there cannot now be any reason to apprehend an objection of that sort; as an act of Parliament has passed, constituting Commissioners for examining into the state, management, produce, and expenditure of the Land Revenue, and directing them to report to the King and the Parliament such observations as shall occur to them; and more especially, as the Commissioners appointed by that act, have delivered into the House of Commons a full statement of all the demised lands of the Crown, in a schedule made out by the Surveyor General in the year 1782: it seems, indeed, to be the intention of the Administration to lay before the Parliament, a full and unreserved state of the Land Revenue, as a foundation for the consideration of what may be fit to be done respecting it.

For the promotion of that enquiry, by shewing the nature and extent of it, these thoughts are now submitted to the Public; not as a complete account of the Land Revenue, but as an introduction to the knowledge of a subject, which will  
probably



probably be more amply detailed in the Reports of the Commissioners of the Land Revenue.

Hitherto, a peculiar ignorance seems to have prevailed, respecting the nature of the Crown lands. Some persons conceive the object to be more considerable; and others think it less so, than it really is. While some are flattering themselves with the delusive hopes of great relief from national burdens, by the sale of the Crown lands, others as ignorantly suppose, that they are so totally and irretrievably alienated, that the remaining interest is too insignificant to deserve any attention.

The information hereby communicated, is not so minute and particular, as that which is given to Parliament in the schedule of 1782, but being of a more comprehensive nature, it could not be obtained without a research into the early and dark periods of our history; the reference to which may render some of these chapters less interesting to those who are regardless of the study of antiquity.

It is certainly a matter of more curiosity than use, to trace the decline of this estate; but as it once constituted almost the whole revenue, those who have leisure, may wish to see the rise, maintenance,

tenance, and downfall of this ancient edifice. And as some of the materials of this ruin remain not yet quite mouldered away, it may not be useless to investigate the method of turning them to the best account.

If the following observations shall at all contribute to the service of the public, by throwing any light on objects which have not as yet been brought into one point of view, the Author will attain his sole purpose, and will contentedly submit to the censure which he may deserve, for the many errors and defects in the execution of this attempt.

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# OBSERVATIONS

ON THE

LAND REVENUE.

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## INTRODUCTION.

———Laudato ingentia rura

Exiguum colito———

GEORGICON, lib. 2.

### CHAP. I.

**I**AM too well aware of the extent and intricacy of the subject, to undertake an history of the land revenue. It would require very laborious researches into the most ancient rolls, manuscripts, and records, much knowledge of the feudal law, and a very intimate acquaintance with the jurisdictions of

B

courts,

courts, and the nature of offices, some of which have been abolished, whilst the functions of others have ceased.

At this juncture, however, some short account of the landed property of the crown may not be quite unacceptable, or useless.

The land revenue is an expression which might induce any one to suppose, that a considerable share of the national expences are defrayed by rents issuing from lands, and that, to answer such a demand, an immense and well cultivated territory is appropriated to the public use. But the fact is otherwise in this country. In ancient history we find republics supported by such means; and in these days the ordinary source from whence the public revenues of the east are derived, is the rent of land. The share which this country enjoys of the territorial revenue of Indostan, affords a very satisfactory instance of the prevalence of this usage in the eastern part of the world. In the earlier periods of the history of Europe its sovereigns were maintained by the rents of crown lands; large remnants of which, consisting chiefly of forests or wastes, which contribute little to the  
pro-

produce or population of the country, are to be found in all the great monarchies of Europe. But no civilized state in Europe draws its public revenues immediately from the rents of lands destined for that purpose<sup>a</sup>.

In the présent state of general civilization, whilst the expences of every government are so enormous, the principal source of revenue cannot with any degree of convenience be drawn from lands allotted to the public. If it were attempted, it must be in one of these two ways, as Sir William Petty says, either “ by  
 “ cutting out from the whole territory as much land  
 “ in specie as whereof the rack-rent would be sufficient, and appropriating the said land to the  
 “ crown ; or else by *excising* a proper part of the rent  
 “ of the whole territory, and applying it to the use  
 “ of government ;” of which two ways, he says, the latter is manifestly the better. And he adds, that  
 “ a country is happy in which, by original accord,  
 “ such a rent is reserved, as whereby the public charge  
 “ may be borne without contingent sudden super-  
 “ additions<sup>b</sup>.” If by this latter sentence he means

<sup>a</sup> Nature and Causes of the Wealth of Nations, vol. 2, p. 421.

<sup>b</sup> Sir William Petty on Taxes and Contributions, tracts, in octavo, p. 24, 35.

no more than that it would be better for any state, which should happen to be supported by a rent from land, that such rent should be very ample and sufficient at first, for the maintenance of the government, he says, what is very true and uncontrovertible; though it will be found impossible so to measure and proportion the revenue of any country to its wants, as to guard against demands which must arise in the course of time from unavoidable exigencies. But if Sir William Petty means to say, that it would be advantageous to any country to receive its revenue in that mode, by taking a certain share of the rents issuing out of all the land, he then, indeed, takes upon him to lay down a doctrine which he has not attempted to support, and which no ingenuity would be able to maintain. The expence and trouble of such a collection of rents is too apparent to need any explanation, and too many writers have shewn the inconvenience of such a species of revenue, to make it necessary for me to state the reasoning on that subject.

Mr. A. Smith goes still further, and not only thinks that the public revenue cannot be drawn from land,  
but

but says, that “the rent of all the lands in the  
 “ country, managed as they probably would be if they  
 “ all belonged to one proprietor, would scarce, per-  
 “ haps amount to the ordinary revenue which is  
 “ levied on the people, even in peaceable times.”  
 His method of evincing the truth of this position, is  
 by stating the ordinary revenue at £10,000,000, and  
 the land-tax at £2,000,000, and by supposing the land-  
 tax to be one-fifth of the rent, not only of all the  
 land, but of all the houses, and of all the capital  
 stock (excepting that part which is lent to the pub-  
 lic, or employed as farming stock) so that the value  
 of the whole rent and stock of the kingdom together,  
 amounts only to £10,000,000 per ann. which is no  
 more than what is levied on the subject in time of  
 peace. He then admits that the land-tax is rated,  
 upon an average, very much below the real value,  
 and that many people have estimated the rent of land  
 alone at £20,000,000, but says, that if all the land  
 belonged to one proprietor it would not produce  
 half that sum, or perhaps a fourth part of it, and  
 then, by way of example, asserts, that “the crown  
 “ lands of Great Britain do not at present afford the  
 “ fourth part of the rent which would probably be



“ drawn from them, if they were the property of  
 “ private persons.” Although I agree with Mr. Smith  
 in the general position, that land is not a proper fund  
 for public revenue, yet I can neither accede to his  
 notion, that the rent of all the land is not adequate  
 to the public expenditure, or by any means admit his  
 assertion relative to the produce of the crown lands  
 in England. If it had been stated, that they do not  
 produce a net income, after the expences of manage-  
 ment, equal to what they might, if possessed by pri-  
 vate persons, I should have concurred in the propo-  
 sition; and, I believe, that there is no other species  
 of revenue of which that might not be predicated.  
 The public can never expect to be so cheaply served  
 as individuals, and has no great reason to complain,  
 so long as it is effectually protected from negligence  
 and fraud in the officers concerned in the collection  
 and management of its revenues, and from the em-  
 bezzlement and prodigality of ministers.

If landed estates were a principal source from  
 whence the public exigencies could be supplied, they  
 would necessarily be so extensive as to require a dif-  
 ferent kind of consideration from that, which this  
 treatise, or any other of my composing, can afford.

The



The management and disposition of so vast a concern would be a matter which could not be discussed without examining almost every topic of political œconomy. To embrace the whole of such a multifarious subject, it would be necessary to investigate many of the most abstruse questions which have furnished matter of controversy for the ablest theoretical writers of former times, as well as of this speculative age.

Unsatisfactory as most speculative disquisitions are, none yet are so uncertain, vague, and endless, as those which relate to political œconomy. But, above all, it is surely most astonishing to find, that the greatest and most general question which can be stated concerning land, is undetermined; that the first principles of political œconomy, which relate to agriculture, are as yet unsettled. It is at this day a question on which some learned and ingenious writers differ, whether the produce of land is the sole source of the revenue and wealth of every country. The modern French œconomists maintain the affirmative, and carry their doctrine to a very extraordinary length<sup>d</sup>.

<sup>d</sup> *Ami des Hommes*, tom 6, p. 182. Mirabeau.

*L'ordre naturel et essentiel des Sociétés Politiques*, tom 2, p. 375. La Rivière.

The system which they support has been lately erected in France; for in Mr. Colbert's time, principles of a very opposite tendency prevailed, and were the foundation of many regulations and institutions established by that able and industrious minister. Mr. Colbert, however, was led, by his prejudices, in favour of the mercantile system, into the other extreme, and by too much zeal for the promotion of commerce, <sup>he</sup> discouraged <sup>ed</sup> ~~ing~~ agriculture. He bestowed unreasonable privileges upon one species of industry, and subjected another to as unreasonable restraints. To render provisions cheap to the inhabitants of towns, and thereby to encourage manufactures, he prohibited the exportation of corn, and depressed the industry of the country. But the fashion is now changed in France, and the philosophers of the sect of Mr. Quesnai are not satisfied with extolling the praises of agriculture, but at the expence of commerce and manufactures.

Mr. A. Smith \* has very clearly shewn the fallacy of Mr. Quesnai's system, and justly says, that this proposition concerning the unproductive nature of manufacturing labour, owes many of its admirers to the paradox which it contains, and to a desire of

\* B. 4th. p. 272.

appearing to understand what surpasses the comprehension of ordinary people. I am as much surprized as he can be at the extravagant praises bestowed on this system by the Marquis de Mirabeau, who not only considers the œconomical table of Mr. Quesnai as the great discovery of the age, but classes it with the invention of the art of writing, and the invention of money, which three inventions, he says, have principally given stability to political societies, independent of many other inventions which have enriched and adorned them.

I shall enter no further into these speculations and controversies, being perfectly satisfied myself, and thinking it unnecessary to prove to this country, that manufactures are a source of wealth. Sensible of the advantages of commerce, without depreciating the benefits of agriculture, I have only to lament that the lands to which the following observations relate, are not extensive enough to afford a more ample instance of these benefits; and shall now proceed to the investigation of the particular object of these enquiries.

## C H A P. II.

Of the ORIGIN and SOURCES of the LAND  
REVENUES of England.

Pandere res altâ terrâ & Caligine merfas, *ÆNEIDOS*, lib. 6.

**I**N tracing the origin and sources of the landed property of the crown, I might be led into the discussion of some of the most obscure and intricate questions, in very remote and dark periods of our history. If I were either able, or inclined, I might enter into the controversy concerning the nature of the Norman conquest; whether William the First subdued the country, and seized the land by military force; or whether conquest signifies no more than acquisition, and that the land was formally ceded to the crown twenty years after his arrival, by all the principal landholders of England, at London and Sarum. I might go still further, and take a part in the dispute, whether, and in what degree, the feudal policy existed in this country before the Norman conquest; whether, in Saxon times, Thane lands were subject to  
Knights

Knights service<sup>g</sup>, and whether the law of tenures was afterwards, in the fourth of William the First extended only to the lands of Bishops and Abbots<sup>h</sup>; or whether feudal tenures were introduced into England by the fifty-second law<sup>i</sup> of William the First, in the twentieth year of his reign; whether this very law is not now extant<sup>k</sup>; and whether, from the particular penning of it, we may not conclude, that<sup>l</sup> it was enacted by the King, in conjunction with the *commune concilium regni*, and adopted freely, in a national assembly<sup>m</sup>, for the peace and security of the realm, to put it in a posture of defence against any future invasion, and on an equality with other nations of the continent, where the feudal dependance provided at all times a permanent establishment of military force. But these are matters of more curiosity than use: volumes have been written on the subject, and so many men of such profound learning have differed on the question relative to the time when feuds were first brought into England, that Sir Martin Wright concludes, that bare authority ought to have little or no influence on our

<sup>g</sup> Selden Tit. of Honor, from 507 to 520. <sup>h</sup> Wright's Tenures, 74. Tit. of Honor, 578, 580. Case of Tenures in Ireland, 199. <sup>i</sup> Wilkins, 228. <sup>k</sup> Blackstone, vol. 2, p. 49.

<sup>l</sup> Wright's Tenures, 69. <sup>m</sup> Dialog. de Scacc. c. 16.

judgment, and that, in this case, any one may, without vanity, lean unto his own understanding. When I find such authorities as these ranged on opposite sides in this contest,

That feuds existed before the conquest,	That feuds were first introduced by William the First,
The Author of the Mirror,	
Lord Coke,	Matt. Paris,
Selden,	Bracton,
The Judges of Ireland in the case of Tenures,	Sir Henry Spelman,
Nathaniel Bacon,	Dugdale,
Sir William Temple,	Wilkins,
And Blackstone, though he does not admit that they were a part of the national constitution ;	Sir Robert Cotton, Lord Hale, Cragg, Somner, Sir Martin Wright ;

it becomes me to draw another inference than that which Sir Martin Wright has given us, and to conclude that the matter is so uncertain in itself, so enveloped in the darkness of antiquity, and already so much examined and debated, that it would be useless

and



and presumptuous in me to attempt the discussion of it<sup>a</sup>.

It is sufficient for my purpose, that it is agreed by all, that the law of tenures was firmly established in the time of William the Norman, and that all the land in the kingdom was held of the King, as the supreme and universal Lord of the whole territory; and that it then became a fundamental maxim, that no man doth or can possess any lands therein, but as either mediately or immediately derived from him<sup>o</sup>. This establishment of the feudal policy, whether it was effected by the arbitrary power of a conqueror, or by the consent of a general assembly of the realm, rendered the King proprietor of every acre of land within the kingdom.

But in what manner and degree this property of the crown took place, what was the nature of it, and what species of dominion the King exercised over it, is a question, on which the learned are at variance. It is still disputed, whether William actually seized

<sup>a</sup> In Mr. Hargrave's excellent edition of Coke Lyt. there are two very curious and learned notes on this subject, p. 64 and 83.

<sup>o</sup> Spelman of Parliaments.

the whole land, and granted it out again, purely according to his will, in such proportions, and to such persons as he pleased; or, whether he only became the Lord of the territory, by the surrender of it into his hands, to be held of him by the performance of feodal services, in such manner as that he did not acquire any real and permanent, but merely a fictitious and transitory possession of the land, which was only resigned to him as a form, necessary to establish a principle of the general law of tenures, that all landed property must originally flow from the crown.

This question is, and ever will be, undecided; and the authorities on the different sides are as numerous and respectable, as on the former question, relative to the æra of the introduction of feuds. But the authorities, which concur on each side in the former question, do not agree and class themselves together in this.

Lord Coke<sup>p</sup>, and Mr. Selden<sup>q</sup>, who maintain the existence of feuds in Saxon times, are of opinion, that

<sup>p</sup> 1 Inst. 76, b.      <sup>q</sup> Tit. of Honor, Earl and Thane, 669, fol. ed.



William the First took all the lands from the English<sup>r</sup> into his own possession; while Nathaniel Bacon<sup>s</sup>, and Sir William Temple<sup>t</sup>, who agree with them in the former question, differ from<sup>u</sup> them in the latter. Thus also Sir Henry Spelman<sup>w</sup>, and Sir Robert Cotton<sup>x</sup>, who maintain that tenures were first introduced by the Normans, think that all private possession of land was actually derived from<sup>y</sup> the grant of the crown, into whose hands it came at the conquest; and Lord Hale<sup>z</sup> and Sir Martin Wright<sup>a</sup>, who concur with them in regard to the origin of tenures, are positive, that the English were not dispossessed of their lands by the conqueror<sup>b</sup>.

This is but a small part of the contention and confusion of great authorities which might be shewn; but it is sufficient to deter me from attempting to reconcile such jarring opinions. I shall only observe, that it seems to be the most prevailing opinion, that the conqueror did not, in fact, take the property and

<sup>r</sup> 1 Inst. 58, b.      <sup>s</sup> On Government, quarto ed.      <sup>t</sup> Introd. to Hist. of England, 559.      <sup>u</sup> Ditto 553. On Government, 72, and 84, 85.      <sup>w</sup> Spel. of Feuds.      <sup>x</sup> Posth.

Works, 344.      <sup>y</sup> Spel. of Parliaments. Posth. Works, 13, 344.

<sup>z</sup> Lord Hale's Hist. of C. L. 107.      <sup>a</sup> Wright's Tenures, 57.

<sup>b</sup> Hale's Hist. of C. L. 94. Wright's Tenures, 61.

possession of the whole *terra firma* of England, in any other way, but as chief Lord, of whom all lands must be holden, according to the feudal policy, which was the law of nations in the western world. At the same time it must be confessed, that the weight of authority on the other side is almost irresistible. The Monkish historians, in general, describe the Conqueror as a tyrant, who laid violent hands on all the property of the country, claiming it as the spoils of war, distributing it at his pleasure amongst his followers, and subjecting the natives to perpetual servitude. In this notion they have been too implicitly followed, without sufficient allowance for their prejudices against the Normans, and their desire of decrying the feudal law; and too much credit has been given to their assertions, on account of their having lived near those times, which circumstance did not contribute to their impartiality, or perhaps increase their veracity. But without any intentional misrepresentation, many of these Monkish writers may have been induced to state, and to believe, that the victorious Norman, *jure belli*, first took to himself, and then gave away, the estates of the conquered English. The numerous and extensive grants which he necessarily made to an army of adventurers, to whom

whom he owed his success, and on whom he depended for the continuance of his possessions, might make him appear to set no bounds to his will, in the seizure of lands; and the many instances of oppression, which are unavoidable on such events, and must ever attend the hurry and disorder of a successful revolution, brought about, both by internal division, and open hostile invasion, might confirm the notion of his unlimited and arbitrary power. Amongst many others, who have joined in this idea, first propagated by the Monks, Lord Bacon<sup>d</sup> asserts, that the Conqueror got, by right of conquest, all the lands of the realm into his own hands, in demesne, taking from every man all estate, tenure, property, and liberty of the same. But the better opinion seems to be, as Lord Hale states it, 'that no person, simply and *quatenus* an Englishman, was dispossessed of any of his possessions: for it appears plainly, from the history of the times, that William pretended a title to the throne, and therefore treated his opposers, not as enemies, but as traitors<sup>f</sup>. Accordingly he seized the lands of those who supported Harold in resisting his authority, as

<sup>c</sup> Cotton. Posth. Works, 13. Hale Hist. C. L. 96. Answer to Petyt, 35.  
<sup>d</sup> Use of the Law, 34, 35.  
<sup>e</sup> Hale's Hist. C. L. 94.  
<sup>f</sup> Wright's Tenures, 62.

forfeited to him by law ; and with these he rewarded his army. Some authors have endeavoured to prove from the extent and magnitude of the grants made to the Normans, that the whole of what was granted could not have been forfeited land<sup>s</sup>. Enormous grants were certainly made to an infinite number of his followers. But why might not all these have been forfeited ? Much the larger part of the nation opposed William's entrance, although he had a faction in the country, whose services he rewarded by adding some of the forfeited estates to their possessions. There are still families in this country in possession of lands granted to their Saxon forefathers, by the Conqueror, for their adherence to him against Harold ; as well as a great number of instances of persons now holding lands by descent from their Norman ancestors, who attended William at the battle of Hastings. As a general rule, therefore, with some exceptions only of cases of partial violence, oppression and injustice, I must suppose, that the Conqueror did not dispossess those land-holders who neither appeared in arms, nor conspired against him.

§ Answer to Petyt, 28.

It remains now to be seen, what lands William became actually possessed of, for his own use. Lord Hale tells us, “<sup>h</sup> That it is certain that he took into his hands “ all the demesne lands of the crown, which were “ belonging to Edward the Confessor, at the time of “ his death, and avoided all the dispositions and grants “ thereof, made by Harold, during his short reign ; “ and this might be one great end of his making “ that noble survey, in the fourth year of his reign, “ called generally Domesday-Read, in some records, “ as Rot. Winton, &c. thereby to ascertain what were “ the possessions of the crown in the time of the “ Confessor, and those he entirely resumed. And “ this is the reason why, in some of our old books, “ it is said, antient demesne is that which was held “ by King Edward the Confessor.” This opinion, that the Conqueror reserved for his own demesne the lands which were King Edward the Confessor’s, though it is generally received, is not uncontroverted. In the answer to Mr. Petyt<sup>i</sup>, two instances are given, out of Domesday Book, of estates held by subjects, which had belonged to King Edward. Roger Montgomery had great part of Shropshire, and Hugo de Port many

<sup>h</sup> Hale’s Hist. C. L. 93.

<sup>i</sup> Page 24.

lands in Hampshire, *quas Rex Edwardus tenebat*, as appears from Domesday<sup>k</sup>. The time also when this general survey was begun, and the purpose for which it was made, are disputed. It was finished about the twentieth year of the Conqueror in 1086; and Lord Hale, as above, says, that one great end of it might be to ascertain which were the possessions of the crown in the time of the Confessor. But Sir Martin Wright<sup>l</sup> supposes, that it was taken upon, or soon after, our ancestors consent to tenures, in order to discover the quantity of every man's fee, and to fix his homage. A very good account of Domesday is to be seen in the *Registrum Honoris de Richmond*<sup>m</sup>, to which is subjoined a treatise, entitled, *Præfatio Arthuri Agardi, in explicationem verborum obsoletorum, & inusitatorum, quæ in Libro, censuali nuncupato, occurrunt, in qua de Etymologia verbi DOMESDAY, librique usu, & de modo quo collectus & digestus fuit, agitur*. Arthur Agard<sup>n</sup> gives several good reasons to shew, that this survey was made for the purpose of settling the geld (or tax) that was due

<sup>k</sup> Domesday Hantsire, fol. 44. B.

<sup>l</sup> Wright's Tenures, 56.

<sup>m</sup> Registrum Honoris de Richmond, Appendix, No. 1. <sup>n</sup> Arthur Agard is mentioned by Spelman (in his Glossary, 179) with gratitude, for granting him access to this and other records, which were in his custody as Deputy Chamberlain of the Exchequer. He calls him *Senex versatissimus*.



from the subject. It is, indeed, very generally stiled *Liber censualis, qui vocatur DOMESDAY*. Whenever it was begun, or for whatever purpose it was made, it is certainly not only the most venerable monument of Great Britain, as Sir Henry Spelman calls it, but it is one of the most curious and valuable records in Europe°. It contains a description of all the lands in England, except the four northern counties, which were in a state of waste and desolation. It was not, however, the first survey which had been made of England. Alfred had, two hundred years before, taken a general one of the whole kingdom, which was extant in the reign of the Conqueror. Ingulphus<sup>p</sup>, a cotemporary author, says, *Willielmus totam terram descripsit, nec erat Hida, in tota Anglia, quin valorem ejus, & possessorem suum, scivit; nec lacus nec locus aliquis, quin in Regio Rotulo extitit descriptus, ac ejus redditus & proventus, ipsa possessio, & ejus possessor, regie notitiæ manifestus, juxta taxatorum fidem*; and then proceeds to

o Since these observations were written, the record, called Domesday, has been printed and published. It was printed at the public expence, by order of the House of Commons, and published under the care of Mr. Farley, one of the Deputy Chamberlains of the Exchequer, and one of the Keepers of the Records of that court, who has twice perused and collated this voluminous work, and has undergone the labour of copying the whole record with his own hand.

p Inter Scriptores post Bedam, p. 516. ed. 1596.

give

give an account of Alfred's survey, as well as of Domesday. He says, *Talem Rotulum et multum similem ediderat quondam Rex Alfredus, in quo totam terram Angliæ, per comitatus, centurias, et decurias descripserat*; but that in Domesday, *non tantum totius terræ comitatus, centuriæ et decuriæ, sylvæ, saltus, et villæ universæ, sed in omni territorio quot carucata terræ, quot jugera, et quot acræ, quæ pascua et poludes, quæ tenementa, et qui tenentes continebantur*. Domesday, however, contains still more; for not only the land was surveyed and registered, with the particulars above stated, but many more minute matters were examined into, and returned by the Commissioners <sup>p</sup>, namely, five of the King's Justices, who were sent into each county, and were authorized to take the inquisitions and verdicts of juries, composed of all orders of men, and sworn to give information on a great variety of heads, such as the name of each manor <sup>q</sup>, who held it in the time of Edward the Confessor, and who held it then; how many hides, how much wood, how much pasture, how much meadow it contained, how many ploughs in the demesne part, and how many in the tenanted part, how many mills, how many fishponds or fisheries belonged to

<sup>p</sup> Spelman's Gloss. 177, quoting the annals of Waverly.

<sup>q</sup> Lord Lyt. Hist. H. 2. vol. 2. 289.



it, what had been added to it or taken away from it; what was the value of the whole together in the time of King Edward, what when granted by William, what at the time of this survey, and whether it might be improved or advanced in its value; the names of the tenants, the number of slaves, and the live stock in each manor. This last article, however, is only to be found in the surveys of Essex, Norfolk, and Suffolk. These three counties are contained in a separate volume, which is said by Spelman<sup>r</sup> to have been finished in the last year of William's reign. The other great volume contains all the rest, except the four northern counties. These two books are kept in the Chapter-house of Westminster Abbey, among the records of the receipt of the Exchequer. There is a third volume, kept by the King's remembrancer, which is an epitome of them both. From this great work it may still be seen, which were the lands that Edward the Confessor held; if they are those which are described in Domesday, under the title of *Terræ Regis*; so that it is in the power of any one who is curious enough to make the enquiry, even in these days, to see what landed estate belonged to the crown

<sup>r</sup> Spelman's Gloss. 177.

at the time of the conquest. But as a catalogue of these lands would swell this little treatise beyond its proper size, and would answer no purpose, either of amusement or instruction, it is not here inserted. It is sufficient, in this place, to observe, that the territory belonging to the crown was very great. Davenant tells us, that “there were appropriated  
 “to the crown 1422 manors or lordships, besides  
 “lands and farms in Middlesex, Shropshire, and  
 “Rutlandshire, over and above which there were  
 “quit-rents paid out of several manors, inasmuch  
 “that Ordericus Vitalis says, William the First had  
 “coming in £1061 10s. 1  $\frac{1}{2}$  d. *per diem*, of sterling  
 “money, which (the value of money in these days  
 “considered) was a prodigious income. Jarvais of  
 “Tilbury says, indeed, that at that time all the  
 “King’s tenants paid their rents in kind; but this  
 “will appear manifestly otherwise to any one that  
 “looks into Domesday Book; and though Ordericus  
 “may have given us an account some what too large,  
 “yet, considering the number and value of his manors, and the number of Knight’s fees, which were  
 “60,000, out of which escuage might be levied in  
 “times of action, he had, without doubt, a very  
 “great revenue either for peace or war.”

William

William the First certainly enjoyed a vast estate in rents, both in money and in kind, and in feudal profits ; and the principal revenue of the crown, for many ages after the conquest, continued to be derived from land ; and for a long time a great part of that estate consisted in the lands which were stiled *TERRÆ REGIS*. Sir Henry Spelman<sup>w</sup> calls it *SACRUM PATRIMONIUM*, the inseparable inheritance of the crown ; and Sir Robert Cotton says<sup>x</sup>, that our forefathers thought it impious to alienate the antient demesne lands of the crown. This antient demesne land was appropriated to the King's own use, the maintenance of his household, which was in those times almost the whole expence of the crown ; for wars were carried on entirely at the cost of the landholders, who, by their tenures, were obliged to attend the King in the field, and to find men and horses, with ammunition and sustenance for them, as well for the defence of the realm, as for expeditions against the enemy. But the tenants in antient demesne could

<sup>w</sup> Spel. of Parlt. 57.      <sup>x</sup> Posth. Works, 179. In France *Le Domaine du Roi* is now and always has been inalienable. It is considered as the *Domaine de La Couronne*—Le President Henault has shewn that, it is a mistake to suppose that the *Domaine du Roi* has been inalienable only since Philippe le Hardi. *Abregé Histoire de France*, Vol. 2. P. 898.

not be drawn out to serve in war ; they were solely dedicated to husbandry, and had no other occupation but that of cultivating the soil thus destined for the King's support. At first the Kings of England used to stock the grounds themselves, like the Kings of Israel, and by the profits thereof maintain their hospitality, their court, and estate, having in every manor officers and servants for that purpose ; for the persons who cultivated the King's own lands were not properly called tenants ; there was no tenure in the case ; they did not, strictly speaking, hold the lands ; they only manured, and ploughed, and husbanded them, furnishing the King's table with provisions ; and were no more than the King's agricultural servants. Afterwards, when they came more properly to be called tenants, being permitted to reside and subsist upon the King's demesnes, on condition of rendering corn, sheep, oxen, and other immediate produce of their farms, they still continued for a long while pure and absolute villeins. But in process of time some of these tenants were, to a certain degree, enfranchised, and permitted to hold their lands on the performance of some better kinds of villein services, such as were fixed,

and determinate, as the ploughing of a certain quantity of land. So that though their tenure was originally base, and their services of a villeinous nature, yet they were no longer pure villeins, not being liable to uncertain services, not being dependant on the will of their Lord, nor obliged to give up their lands at his pleasure, or to hold them against their own; and moreover enjoying some particular privileges which exempted them from the ordinary course both of the military and civil government. They were not bound to serve in war, they had a jurisdiction of their own, for the trial of property in their lands; they were not to pay toll or taxes, or expence of Knights of shires, or be put on juries. Mr. Justice Blackstone <sup>z</sup> has very clearly shewn their tenure to be properly VILLEIN SOCAGE, and has reconciled some great authorities, which seemed to clash and disagree in their expressions on the subject.

The revenue, which the Crown drew from its antient demesnes, was originally by returns in specie from the tenants. For the most part they consisted of the produce of the land itself, though sometimes boroughs held land in antient demesne, on condition

<sup>z</sup> Book 2d. 100.

of furnishing cloth for the King's household, or importing silks or foreign manufactures.

But this was found to be a very inconvenient kind of revenue, even for those times, to which it was much better adapted, when Kings and their Nobles had no other kind of magnificence than in the number of their dependants, and no other extravagance than in the profusion of their entertainments and the extent of their hospitality. Accordingly this system was changed: Lord Lyttelton<sup>a</sup> quotes the author of the dialogue *de Scaccario*, on this subject, who says, that from the conquest till Henry the First, the rents of the crown were paid in provisions. Lord Lyttelton observes, that rents were often paid to the crown in money, from its demesne lands, before that time, but that the converting all such rents into pecuniary payments was a memorable act of that reign. This alteration was adopted by King Henry the First, in consequence of grievous complaints, made by his tenants, of the hardships they suffered in bringing victuals, and necessaries, for the King's household, from their own dwellings to different parts of the kingdom. Gilbert says, that when the crown ceased to take the

<sup>a</sup> Hist. H. 2d. vol. 2, 291. 2d ed.



profit of the land in specie, an assessment was made<sup>b</sup> on them in proportion to their value, and the necessities of the crown. This assessment was settled by the King's Justices itinerant, and was called Tallage. In Gilbert's Exchequer<sup>c</sup>, it is said, none but antient demefne lands, and boroughs holding of the crown, were tallaged by the King's Justices; others were accounted for by the Sheriff. But in Maddox's History of the Exchequer<sup>d</sup>, which is quoted to prove that position, we find that all *maneria, or terræ, quæ erant in manu regis*, were tallaged, in which were comprehended escheats and wardships, which the King held *tanquam in dominico*. Maddox says<sup>e</sup>, that in elder times tallage was called *Donum & Assisa*; that *donum* was a general word, but that to avoid confusion, he had in his own mind reduced it to two or three particular heads: that when it was paid out of lands which were not of military tenure, it was Hidage; when it was paid out of Knight's fees, it signified Scutage; and when paid by towns and burghs, it was Tallage. This method of raising money, by tallage, was very oppressive, and impolitic: it was oppressive, because the

<sup>b</sup> Gilbert's Exchequer, 15, 16.  
ch. Tallage, fee 3, p. 700, quarto ed.  
quarto ed.

<sup>c</sup> Page 17.

<sup>d</sup> Maddox

<sup>e</sup> Maddox, vol. 1, 694,

sum to be assessed was fixed by the King's Justices arbitrarily; it was impolitic, inasmuch as it prevented the improvement of estates, like the *Taille a volonté*<sup>c</sup> in France; for the tallages were assessed the higher, in proportion to the improvement of the land. The bad policy of this regulation was perceived, and the true interest of the crown was consulted, in converting this tallage into a certain rent<sup>f</sup>. Antient demesne lands came thus to be granted at fixed rents, payable to the Exchequer, and were then never taxed by Parliament, but for the tenths and fifteenths of personals; and antient demesne towns obtained the exchange of their services for certain rents, and were erected into free boroughs, and began to send their representatives to parliament about the latter end of the first Norman period.

Having said so much on the antient demesne, or private estates of the Kings of England, and the three methods by which revenue was drawn from them,

<sup>c</sup> Monsieur Necker, in his Treatise on the Administration of the Finances of France, says, that an arbitrary assessment forces the contributors to dread the increase of their riches, and he proposes the suppression of such taxes as obstacles to the progress of cultivation, commerce and industry. Mortimer's Translation of Necker, vol. 1, p. 343.

<sup>f</sup> Gilbert's Exchequer, 19, 31.



first in specie, or the gross produce of farms; secondly by assessment, called Tallage; and thirdly, by certain rents; I must observe, that though they were the only lands originally belonging to the crown before the conquest, yet our first Norman Monarchs enjoyed an immense territory from the estates forfeited by the English, who adhered to Harold; and others came by various means into the King's hands; all which, together with the feudal profits arising from land, constituted almost the whole revenue of the crown in the early periods of our history. In the catalogue of royal revenues, given by Mr. Maddox in his tenth chapter<sup>g</sup>, we find them almost all derived, mediately or immediately, from land. 1. The demesnes of the crown. 2. Escheats. 3. Feudal and other profits arising out of ancient demesne and escheats, such as reliefs, wardships, marriages, &c. 4. The yearly farms of counties, and of towns or burghs. 5. Fines and amerciaments of many kinds in civil and criminal cases, and for the forests. 6. Aids, scutages, tallages and customs. 7. Casual profits of divers kinds, such as treasure-trove, waif, wreck, goods of felons, fugitives, and outlaws. It is not my intention to undertake any explanation of the nature of each of these

<sup>g</sup> Hist. of Exchequer, c. 10, vol. 1, 295. quarto ed.

branches

branches of revenue, but by the bare enumeration of them, to shew that, in general, they spring from land. This is obvious, as the terms are intelligible to any one who is at all conversant with the laws or history of England. It is totally impossible to ascertain the amount of the revenue flowing from all these sources; and it would be a vain and fruitless pursuit, if it were attempted by the most learned antiquarian of the age, to enquire what was the extent or value of the lands which were in the hands of our ~~antient~~ Monarchs, after the reign of William the 'First, though, during his reign, they are to be seen in Domesday; for not only the Demeans, properly so called, but also great estates and manors, which escheated to the crown, and others which it held without accounting for the profits, as guardian in chivalry, were actually kept *in manu regis*. Some of the escheated lands were committed to custody, or let out to particular fermours, like the demeanes<sup>b</sup>; and the King had the relief, wardships, marriages, and other profits belonging to them, and, in truth, the full dominion and property in them; insomuch that sometimes, after they had been long vested in the crown, they were hardly to be distinguished from the

<sup>b</sup> Maddox's Hist. Exch. 299.

King's antient demeane. About the latter end of Henry the Second's reign, an escheatry was formed, the escheats lying in several counties were placed together in the revenue rolls, and particular rolls were made of them.

*Custodes Escaetorum*<sup>1</sup> were appointed, who were afterwards called Escheatours, and the Justices itinerant took care, within their several circuits to have the <sup>esch</sup>~~escheated~~ lands seized for the crown, and put in charge to the Sheriffs, and other officers for the King's profit.

The instances both of accessions to and grants from the crown are innumerable. Forfeitures were very frequent, and the devolutions of estates to the King, as the ultimate Lord and Proprietor of all the soil, for want of heirs, were considerable. Under this head we must class that great article of revenue which accrued from all vacant bishopricks, and from such monasteries as were of royal foundation and patronage. On the death of the Bishop, Abbot, or Prior, the King seized the temporalities, enjoyed the rents and issues of the lands, and all the feudal dues and ser-

<sup>1</sup> Maddox, 300.

vices of the military tenants, holding of the bishopricks, or religious houses. The exercise of this right was frequently much abused by the crown, in keeping prelacies and monasteries vacant, for the purpose of receiving their revenues. The complaints on this subject are very numerous and notorious. An immense quantity of land was likewise at all times in the King's hands by his right of wardship; but that was continually changing, for as it came into the hands of the crown by the death of its tenants leaving heirs male under twenty-one years of age, or heirs female under fourteen, and went out of the King's hands by writs of ousterlemain, sued by the heir on his coming of age, it was in a constant state of variation. Lord Lyttelton in his History of Henry the Second<sup>k</sup>, after having described the great extent of the regal power in the times of which he writes, says, the influence which our present government may be supposed to derive from the emoluments it confers, is by no means equal to that which the crown must have obtained while the feudal law was in vigour, from a prudent conduct in the disposal of vacant fiefs. A place or pension held during the pleasure of the King, or even

<sup>k</sup> 2d vol. 287, quarto ed.

for life, is a much less valuable gift than lands of inheritance, some of which had great dignities and privileges annexed to them; besides their rents and profits. A court which had such immense and lasting benefits to confer on those it favoured, must have had many suitors among all ranks of men, perpetually solicitous to gain its good will, and by consequence ready to obey its orders. Nor when baronies, or other fiefs, had been granted by the King, did the dependance upon his favour, with regard to these possessions, entirely cease; for the right of wardship over the heirs, in case of minorities, made all the great families afraid of offending the Sovereign, who might happen soon to have the custody and education of their children committed to him by law, as well as the care of their estates during the time of such custody; and certainly there could not be a more irresistible bribe to avarice, ambition, or love, than the hand of a rich, a noble, or a beautiful heiress, which the King, as feudal Lord was often able to grant. This power alone, as it affected the interests and passions of men in the highest degree, was greater than any the crown possesses now, and very dangerous to the public.

Besides the various means of acquiring estates above-mentioned, which are chiefly of feudal origin, another

source from which lands flowed into the crown was from the prerogative, which the King has immemorially enjoyed and exercised as lord of the sea. Much curious learning on this head is to be found in our old Reports and in the Year Books. But as the subject has been so particularly discussed in Selden's *Mare Clausum*, and in Sir M. Hale's *Treatise de Jure Maris*, it will be sufficient for me in this place to observe, that the King of England has not only a right of jurisdiction, but a right of property or ownership in the narrow seas adjoining to the coast of England, whether it lies within the body of any county or not; he hath also a right of property in the shore and the *Maritima incrementa*. The shore is that ground which is between the ordinary high-water and low-water mark. This of common right belongs *primâ facie* to the King, both in the shore of the sea and the shore of the arms of the sea, although it is true that such shores commonly are parcel of the manor adjacent, and as such are become the property of the subject. The *Maritima incrementa*, or increase of land by sea is of three kinds, *viz.* lands which suddenly arise as islands in the sea, or which are gained from it by sudden alluvion, or by dereliction. By the Civil Law, such lands became the property of the person who first took possession of them.

Justi-



Justinian <sup>1</sup> says, *Insula quæ in mari nata est (quod raro accidit) occupantis fit, nullius enim esse creditur.* But our law <sup>m</sup>, very wisely, to prevent that strife and contention, which the mere title of occupancy is apt to create, and continue, and to provide for the support of public authority, in a manner the least burthenfome to individuals, has given to the crown, what the civil law in this instance, following the law of nature, has given to the first occupant. Bracton <sup>n</sup> recognizes this doctrine as a principle of the law of nations, as well as of the juris-prudence of this country. *Dicuntur etiam res in nullius bonis esse, quæ habitæ sunt pro derelicto; Item tempore dicuntur res in nullius bonis esse, ut Thesaurus; Item ubi non apparet dominus rei, sicut est de wrecco maris; Item de his quæ pro wario habentur, sicut de averiis ubi non apparet dominus, Et quæ olim fuerunt inventoris, de jure naturali, jam efficiuntur principis, de jure gentium.* For these reasons the King is considered as the general occupant of all lands suddenly rising in the sea. Another reason is added by some writers <sup>o</sup>, in corroboration of his title, who say, that as the King is Lord of the Sea, and owner of the soil while it is covered with water, it is but reasonable that he should have the soil when the water has left it dry. It is to be observed, that this right of

<sup>1</sup> Inst. lib. 2. tit. 1. c. 22.

<sup>m</sup> Black. Com. vol. 1. 281.

<sup>n</sup> Bract, lib. 1. c. 12.

<sup>o</sup> Callis, 24. 28.

the



the crown is confined to lands rising in the sea, and not in rivers, where they belong to the Lord of the soil next adjacent. It is also necessary to remark, that unless the land is gained from the sea by large and sudden accessions, it cannot be claimed by the King. I have not any where seen it laid down precisely, how large the portion of land must be to authorize the claim of the crown, nor do I believe that there is any other limitation in respect to the quantity, than that which arises from the maxim of law, that *de minimis non curat lex*, which rule would protect the subject from any trifling demand, if it were possible to suppose such a case. In regard to the degree of suddenness required by the law in the alluvion or dereliction, that likewise is not exactly ascertained; but it seems to be settled, that the subject who owns the contiguous soil can only be entitled to the land which is gained from the sea by imperceptible degrees. In the civil law, from which ours is taken in this matter, we find the definition of alluvion<sup>p</sup>: *Est autem alluvio incrementum latens; per alluvionem autem, id videtur adjici, quod ita paulatim adjicitur ut intelligi non possit, quantum, quoque temporis momento, adjiciatur*. Bracton adopts these words from Justinian, and then proceeds in explanation of them, *nam etsi tota*

<sup>p</sup> Inst. lib. 2. tit. 1. c. 29.

*die infigas intuitum tuum, imbecillitas visus tam subtilia incrementa perpendere non potest, ut videri poterit in cucurbita et similibus.* According to this definition of alluvion, which confines it to cases of imperceptible increase, the King can never claim lands under that title. But it is not meant by Bracton to controvert the right of the crown to lands which are formed by the sudden washing up of the earth, any more than to those which remain by the sudden retreat of the sea from its usual water-mark. It must be owned, that these cases of sudden alluvion and dereliction are rare and uncommon in this temperate climate, which is so little subject to hurricanes and earthquakes. The crown, however, has obtained estates by this prerogative<sup>1</sup>. So lately as in the year 1667, a grant was made by the crown of a tract of sandy ground in the river Humber, called the Great Sand or Sunk (and now the Sunk Island) to which no man pretended title, and on which no beast or sheep were ever known to have been, the ground being overflowed every spring tide. This derelict waste has been so successfully improved, that there are now upwards of sixteen hundred acres of the land imbanked and in tillage, producing a rent of 900*l.* a year, with a chapel and several farm houses erected on it. And another acquisi-

<sup>1</sup> Lord Hale's Treatise De Jure Maris, cap. 4. Hargrave's Tracts.  
tion

tion of land from the sea was made about the same period. In the year 1664, a grant was passed of about three hundred acres of land then lately overflowed by the sea, called Gatcombe Haven, near Portsmouth. Part of this land is now a farm of about two hundred acres, worth upwards of 100*l.* a year, and a considerable salt work has been erected on another part of it. These estates are both held by lease from the crown.

Another source of revenue, arising from land, is the prerogative by which the King is entitled to royal mines of gold or silver. According to some opinions, if gold or silver was found in mines of base metal, the whole was a royal mine, and belonged to the King; though others only held it to be so, if the quantity of gold or silver was of greater value than the quantity of base metal: But that this prerogative might not discourage private owners from working mines, from a fear that they might be claimed as royal mines, it was settled by Stat. 1. William and Mary, c. 30. and 5 W. & M. c. 6. that no mines of copper, tin, iron, or lead, shall be considered as royal mines, though gold or silver may be extracted from them in any quantities; but that the King may have the ore, paying for the same no more than the value of the base metal, according to the prices stated in the act.

The

The only remaining method, by which our Kings became entitled to lands, is that, which, though not frequent in the case of the Crown, yet, among subjects, is the most usual and universal method of acquiring a title to real estates, namely, by conveyance, or purchase; under which may be comprized any method wherein estates are voluntarily resigned by one man, and accepted by another, whether that be effected by sale, gift, exchange, marriage, devise, or other transmission of property by the mutual consent of parties. If it were practicable, it would still be useless, to trace the various instances of estates acquired to the crown by purchase. Davenant<sup>a</sup>, who had made very elaborate researches, tells us, that our princes have seldom been known to purchase lands. This is very true in the sense in which he means it, namely, the buying of lands with money: But exchanges with subjects, of lands for lands, have been very frequent, and much to the prejudice of the crown, which has generally lost by the bargain. The instances of estates purchased by the crown are chiefly to be found in places which have been the residence of our monarchs, and where it has been necessary to buy lands for the private accommodation or pleasure of the royal family.

<sup>a</sup> Davenant on Resumptions, vol. 3. p. 168. 8vo.

## C H A P. III.

Of various Accessions to, and Alienations of, the  
CROWN LAND.

Multa renascentur quæ jam cecidere, cadentque

Quæ nunc sunt——

HOR. ARS POETICÆ.

THE preceding chapter has shewn the various means by which the Kings of England became possessed of their estates. This consideration, as well as the diversity of modes by which lands passed from the crown, the frequency of grants and exchanges, and the continual livery of wards, which kept the landed property of the crown in a constant state of fluctuation, is sufficient to evince the impossibility of ascertaining, at all times, throughout the History of England, what quantity of lands were in the hands of the crown. It would indeed be difficult to trace, how many, and what estates were accumulated in the crown, or passed from it, at any one particular period of remote history, subsequent to the conquest. Such an enquiry, notwithstanding that it has ever been a maxim of law, that the King can neither take nor grant but by matter of record, would elude the industry

dustry of the most learned antiquarian, assisted by the Pipe Rolls, and every public record, and private document now existing. It may nevertheless not be difficult or improper, in this place, to give some general account of the successive increase and diminution of the landed property of the crown. We have already seen it's original commencement and foundation at the conquest. We have observed, that the whole territory was, in one sense, possessed by the Conqueror, and that his grants were very numerous and extensive. The Kings of England have ever exercised their right of disposing of the crown lands at their will and pleasure<sup>1</sup>, although, in antient times, there was hardly any other revenue to support the state; and such alienations, consequently, made it necessary for our princes to resort to their Commons for assistance and supplies. It may seem as if the constitution ought to have imposed restraints on the bounty of the crown, to prevent it's impoverishment; as taxes and impositions must be the unavoidable consequences of profusion in gifts and grants of the revenue. But, as Davenant observes, it would not have been convenient, that the

<sup>1</sup> This right, however, has been the subject of controversy: See Mr. Hargrave's note before the Banker's Case, State Trials, vol. 11.

<sup>2</sup> Davenant on Ministers impeached, 178.



Prince's hands should have been absolutely bound up by any law, or, that what had once got into the crown should have been for ever separated from private possession; for then, by forfeitures and escheats, he must have become Lord of the whole foil, in a long course of time. The constitution, therefore, seems to have left the King free in this matter, but upon this tacit trust (as he has all his other power) that he shall do nothing which may tend to the destruction of his subjects. However, though he be thus trusted, it is only as head of the commonwealth; and the people of England have in no age been wanting to put in their claim to that, in which they conceived themselves to have a remaining interest; and the exercise of this claim is manifest from the acts of resumption, which from time to time have been made in Parliament, when such gifts and grants were made as became burthensome and hurtful to the public. These resumptions have not only been popular, but for many ages were exacted of the crown, against it's will, by the people, in ease of their burthens, and to enable the crown to live upon it's own. In process of time our Monarchs became much less averse from these resumptions; and, in the present age, we find the people as much against resuming royal grants, as they were formerly



formerly strenuous for that measure. In these days it seems to be the sense of Parliament, that, however great the distresses of the public may be, private property is still so sacred, that not only grants in fee, but grants for life, are in no case to be resumed<sup>s</sup>: whereas, in former times, so little attention was paid to individuals on these occasions, that private contracts, marriage settlements, and even sales upon a valuable consideration, were broke into by these acts of resumption, which in one instance, in the 33d of Henry the Sixth, extended to crown lands granted by authority of Parliament. It must be confessed, that such acts were very violent remedies; and Davenant, who takes pains to mark his abhorrence of profusion in grants, still calls these resumptions, a cordial of a very strong operation. Certainly they were very efficacious (though that has been denied) in preventing the total consumption of the land revenue; and, together with the forfeitures and escheats, preserved it in vigour for many ages. Davenant has, in his very learned treatise on resumptions, so fully stated all the records at length, and commented so ingeniously on them, that it will be sufficient for me, in this chapter, shortly to reca-

<sup>s</sup> Debates in Parliament on Petitions in 1780 and 1782.

pitulate what he has said on the matter of resumptions, adding such few observations as may occur on grants from and forfeitures to the crown.

The profusion of grants on the Norman accession was so great, as to occasion a resumption as early as the reign of William Rufus; and there was one in every succeeding reign, down to that of Richard the First, inclusively. This warlike, extravagant, and avaricious prince, after his second coronation, devised several very oppressive expedients to replenish his exhausted treasury, † subjecting all former charters and patents to a renewal under the new Great Seal, which was made on his having lost the old one in his foreign expedition; forbidding all tournaments, and then permitting the nobility to hold and attend them, on paying for a licence, according to their rank; and, besides other violent measures, revoking all alienations of crown lands, though made for a valuable consideration, previous to his departure to the Holy Land. *Quicquid prius leviter datum, aut graviter venundatum fuerat, refecit.* The amount of this resumption must have been prodigious, if co-extensive with the grants; as Hoveden says, that *Rex exposuit venditioni, omnia quæ ha-*

† Sir Robert Cotton's Posth. Works, 192.

*but, scilicet castella, villas, et prædia.* During this period, from William Rufus to Richard the First, including above a century, every reign affords an instance of a refumption. Great accessions were likewise made to crown lands, by forfeitures, in consequence of the many revolts of the great barons, and the disputed succession to the crown, which took place from the conquest down to that period. William the Second, and Henry the First, had an elder brother, whose better title was attempted to be maintained by arms against them both successively. The failure of these attempts involved the ruin of many powerful barons, whose estates were confiscated on that account<sup>u</sup>. Stephen, the third son of the Earl of Blois, had so little claim to these realms, that his whole reign was rather a contest for, than an enjoyment of the crown, and exhibited one constant scene, both of enormous grants made to conciliate the affections of the nobles, and of forfeitures for rebellion<sup>w</sup>. Henry the Second, whose claim was indisputable, came to the crown without any impediment from William, the son of his predecessor Stephen; but still

<sup>u</sup> Odo, Bishop of Bayeux, the Conqueror's brother, &c. Roger Bigod, Roger Montgomery, Hugh Gratmemil, Ralph Mortimer, Roger Lacy, Robert de Mowbray, Robert de Belesme, son to the Earl of Montgomery, William de Montagu, son to the Earl of Cornwall, the Conqueror's brother.

<sup>w</sup> Baldwin Redvers, Earl of Devonshire, Robert Earl of Gloucester.

did not escape a family contention for the government, having, in the midst of his reign, caused the crown to be placed on the head of his own son, who, together with his brothers Richard and Geoffrey, and his mother Eleanor, conspired to dethrone his father, but without success. His adherents consequently lost their estates, which were, however, restored to them by Richard the First. It has been remarked, that in each of the five reigns succeeding William the Conqueror, which include above a century from 1087 to 1199, a resumption took place. In the three following reigns of John, Henry the Third, and Edward the First, which fill up above another century, reaching down to 1307, there does not appear to have been any regular royal resumption. The barons took upon themselves to reform the revenue, which had been wasted by the wretched management of that weak and indolent prince King John, whose heedless profusion, together with his successor's excessive liberality to foreigners, had so reduced the estates of the crown, that Henry the Third was obliged to complain to the barons that his revenues would scarcely afford him meat and drink.

The barons, who frequently refused him any supplies, answered, that he might impute his poverty to his

his own extravagant grants; and that it was become scandalous in the eyes of his subjects, that the King should give tallies for the victuals of his table. They, however, undertook the reformation of his affairs, and seized all the lands and castles which had been bestowed on foreigners, and prevented them from carrying out of the kingdom the wealth which they had accumulated by these grants. This resumption, together with an immense accession of land by the forfeiture of the rebel barons, who were defeated at Evesham, under the Earl of Leicester, must have considerably retrieved the affairs of the crown. Accordingly, we find no resumption in the reign of Edward the First; though that Prince attempted something of a similar kind, differing only in this respect, that not being openly and professedly a resumption, but only a scheme to effect the same purpose under a pretence of law, it was unpopular, and failed in its object. In the 18th of Edward the First, the statutes of *quo warranto* passed; by which all persons, who claimed to have quiet possession before Richard the First, and could shew the same by a lawful inquest, were to be confirmed in their title by the crown, and all who held by charter were to have their charters adjudged according to the tenor and form of them. These statutes were enacted

in consequence of the great confusion which had taken place in landed property, during the troubles of the two preceding reigns, and the many instances of private appropriations of crown lands. There was nothing in these statutes, but what was perfectly consistent with justice, and very necessary to redress many recent abuses and usurpations. But the King very ill-advisedly, and contrary to the sense and intent of the parliament, and for the purpose of extorting money from the subject, under colour of these statutes of *quo warranto*, issued a proclamation enjoining all persons who held lands of the crown to lay their titles before the judges of the realm. This proclamation was the more oppressive, because it was known that many had lost the titles of their estates in the late wars; and it is not easy to judge, how far such a grievance might have extended, if it had not been suddenly stopped by the bold and noble answer of the Earl of Warren, who, when he was called upon by the Judges to shew by what title he held his lands, drew his old sword, and replied to this purport: “ My ancestors, coming in  
 “ with William the Bastard, won those lands by the  
 “ sword, and by the sword I will defend them against  
 “ any that will take them away; for that King did not  
 “ conquer for himself alone, neither did my ancestors  
 “ assist him for that end.”

From



From 1307 to 1399, the throne of England was filled by Edward the Second, Edward the Third, and Richard the Second. The first and last of these reigns was remarkable for a lavish dissipation of royal bounty on undeserving favourites; and in each of them there was a resumption of grants; but in the long reign of Edward the Third there was none. The prodigality of Edward the Second to his first favourite Gavestone, was excessive, giving him the earldom of Cornwall, with all the lands which had fallen in to the crown by the death of the late Earl of Cornwall, son of Richard King of the Romans; besides the wardship of the Earl of Gloucester, and the whole Isle of Man, and a great number of honours, castles, and manors, on his marriage with Margaret, sister to the Earl of Gloucester, and niece to the King; And also the honours of Tickel and Berkamstead, the castles and manors of Skipton in Yorkshire, Hugh Pec in Derbyshire, Cocker-mouth in Cumberland; Torpel and Upton, Northamptonshire; Carebrook in the Isle of Wight, &c. This waste of the crown revenue occasioned an ordinance of the peers, which was ratified in parliament, that the crown lands should not be alienated. But this ordinance was revoked by a parliament at York, in the 15th of his reign, and a fresh torrent of royal profusion broke forth in favour of the Spencers, which,



together with the severity to the Earl of Lancaster and his adherents, occasioned the loss both of the crown and the life of the King. The rigorous exaction of the forfeitures of the Barons, who took part with the Earl of Lancaster, must, however, have been a great source of revenue ; for no less than ninety-five Barons and Knights were taken and carried to Pontefract, and many were executed in different parts of the kingdom. Historians\* say, that never since the Norman Conquest had the scaffolds been drenched with so much English blood, as upon this occasion.

The long and glorious reign of Edward the Third, in whose time we read neither of extravagant grants, nor of any resumption, affords a strong contrast to that of his predecessor. But the reign of Richard the Second, so strongly resembles that of Edward the Second, in more than one respect, that requires some attention not to confound the events and circumstances of those two unfortunate periods.

Richard the Second was not exceeded by Edward, in partiality and profusion to his favourites : Robert de Vere, Earl of Oxford, who was afterwards created

\* Rapin, vol. I, p. 396.

Marquis of Dublin, (the first Marquis known in this country) and Duke of Ireland, and Michael de la Pole, Earl of Suffolk, are names as celebrated in English history as those of Gaveston and Spencer, and for the same causes. They were all the minions of weak Princes, all took advantage of the attachment of their royal masters, to procure exorbitant grants to themselves, and were all deprived of their illgotten wealth by the just indignation of an injured people. The prodigality of Richard was carried to such an excess, that when a patent for a grant to one of his favourites was brought to the Chancellor, Richard Scrope, he peremptorily refused to put the great seal to it. The King, provoked at this refusal, sent for the great seal, which the Chancellor would not deliver up, till Richard went in person and demanded it. For some days he kept it in his own custody, and put the seal to several patents during that time with his own hands. Before this King had sat ten years on the throne, the Parliament, which he had openly threatened to controul, telling them he would ask assistance from the King of France to reduce them to their duty, prevailed so far as to obtain the removal of the Earl of Suffolk and Marquis of Dublin, and the confiscation of their estates. Not satisfied with this, the

Par-

Parliament appointed fourteen Commissioners to take care of the public affairs, jointly with the King. The Duke of Gloucester and the Earl of Arundel were authorized to examine the public accounts, and the past disposition of the King's revenues. Michael de la Pole was found guilty of mismanagement, and obliged to restore all the grants he had received. Rapin<sup>y</sup> says, that these grants were so excessive, that Richard himself, who had never computed them, could not help being surprized, and upbraided his favourite for abusing his good will. During the whole of this reign the Commons were constantly petitioning the King for reduction of expences, and for the application of wardships, marriages, reliefs, escheats, and forfeitures, to the carrying on of his wars; and their requests were followed by several resumptions, which, joined to the great possessions acquired by the confiscation of the estates of those who adhered to the Duke of Gloucester, must have supported the land revenue in spite of the King's profusion. In the conclusion of this reign, during that calm which preceded the destruction of Richard, he had the Parliament devoted to his will. All those who had been formidable to the crown were either banished, or pub-

licly executed, or privately made away with ; the Duke of Hereford and the Earl of Warwick banished ; the Earl of Arundel executed, for a crime of which he had been pardoned nine years before ; and the Duke of Gloucester privately strangled at Calais. Nothing now seemed to stand in the way to prevent absolute despotism : the Parliament went all lengths to supply the extravagance of the Monarch : they reversed the pardon granted in 1386 to the Duke of Gloucester's adherents ; and by the judgments given on accusations of having taken arms in favour of that Prince, no less than seventeen counties were condemned as guilty of high treason, and the estates of all the inhabitants adjudged to the King. In order to avoid the seizure of their estates, they entered into blank obligations, called *Ragmans*, which the King caused to be filled up with whatever sums he pleased. Such tyranny could not long endure ; and in the course of the next year, we find King Richard formally delivering up his crown and scepter ; and by an instrument, signed by his own hand, confessing himself unworthy and unfit to govern any longer.

In 1399, Henry the Fourth of the House of Lancaster ascended the throne ; and from that time till

1509, when both the lines of Lancaster and York were united in the person of Henry the Eighth, the succession to the crown was not settled in the true legal course of descent. The civil wars into which this country was plunged by this disputed title, and the various successes of the opposite parties, occasioned such an infinite number of forfeitures, that it would be a vain and useless attempt to enumerate them here. If all the lands forfeited in these struggles (which almost extinguished the antient nobility of England, either in the field, or on the scaffold, which was the lot of all illustrious prisoners in those barbarous wars) had been annexed to the crown, the crown of England would have been the proprietor of almost all the land. But in these wars, as on many other occasions, it was usual for the King to grant to his adherents the lands which were forfeited by his enemies. If this custom had not very much prevailed throughout the whole History of England, we should have seen the land revenue of the crown swelled to such a magnitude, as must have overwhelmed the nation. The crown might, in that case, have been profuse in its grants, without requiring any of these resumptions which were so frequent in former times. The reign of Henry the Fourth began by a petition of the Com-

mons

mons for a resumption of all lands granted by Edward the Third and Richard the Second, which was refused; but in the 5th of Henry the Fourth, a petition of the Commons had weight enough with the King to induce him to revoke a grant of the lands and rents appropriated to the keeping up of Windsor Castle, which lands, thus rescued, remained the demesnes of the crown until the reign of William the Third, when many of the rents appropriated to this use were granted to the Earl of Portland<sup>z</sup>. In the 6th of Henry the Fourth, the Commons again pray, that all lands, &c. which were parcel of the antient inheritance of the crown in the 40th of Edward the Third, might be reprized, and inseparably reannexed to the crown. This had no other effect but to procure a seizure of them for one year. In the 7th and 8th of Henry the Fourth, the King promises the Commons not to grant any lands conquered from the Welch, until he is informed of the value of them; and in the eleventh year of his reign, he agrees to make no grants of any hereditament or revenue, except offices and bailiwicks, until he shall be quite out of debt.

In the reign of Henry the Fifth, there was no resumption of lands in England; but the Commons

<sup>z</sup> Journals of Commons, vol. xiii. 204, 205.



presented an address to the King, praying him to seize the estates of the clergy. The King was by no means inclined to reject a petition, which was likely to furnish such a considerable supply to him, at the breaking out of a war with France, the conquest of which country he had at that time meditated, and was, indeed, resolved to attempt, though his whole revenue then amounted to no more £56,960 *per ann.* This scheme for laying violent hands on the possessions of the church had been suggested in his father's reign; and the Commons had presented to Henry the Fourth a similar petition, stating that the Clergy possessed a third part of the lands of the kingdom, amounting yearly to 322,000 marks, and not rendering any personal service, it was but just that they should contribute to the necessities of the state. Henry the Fourth was as desirous of availing himself of the advantageous proposal of the Commons as his son. However, when the matter was opened by the Archbishop of Canterbury, with such spirit as seemed to indicate an intention in the Clergy, at all hazards, to oppose the measure; he suddenly dropped the design. But Henry the Fifth openly countenanced the proposal; and the Clergy, apprehensive that they might lose all by resistance, consented to resign a part, to save the rest, and



and offered to deliver up the Alien Priories to the King; who accepted their propofal, which greatly increafed his revenues. Thefe priories, being in number no lefs than one hundred and ten, were by aét of parliament vefted in the crown.

In the 28th of Henry the Sixth, there was a general refumption of all grants, fince the firft day of his reign. In this aét the Commons made only fixteen favings; but there were a variety of very particular favings or refervations, in number one hundred and eighty-five, made by the King, according to powers ftipulated for by him in the aét. In the next year, at which time the whole income of the crown was reduced to £5000 *per ann.* there was another general refumption, with forty-two favings, and particularly with a more exprefs faving for thofe, who had purchafed of the crown, *bona fide*, for a valuable confideration, and for offices, and their accuftomed fees, which latter point was further cleared, by the aét of the 31ft Henry the Sixth, ch. 7<sup>a</sup>; and in the 33d Henry the Sixth, there was another refumption, which was ftill more comprehensive than the former, and extended even to

<sup>a</sup> This aét is not in the Statute Book, but is mentioned in the Patent Rolls, 3 H. 5.

grants made by authority of parliament<sup>b</sup>. These resumptions were popular measures, and not acts of authority exercised by our princes; and as Davenant observes, they were not extorted from this weak King by a faction of powerful nobles, but were obtained by the weight of the people at large.

Edward the Fourth who was by no means like his predecessor, but a warlike prince, who had mastered all parties, granted, at the request of the Commons, four resumptions, some of them extending to his patrimonial revenue, the Duchy of York, and Earldom of March. This was not merely at the solicitation of the people; but, of his own accord, he calls upon them to concur with him in recovering what had been plundered from the crown.

Richard the Third could not resume many grants; for it was not his custom or disposition to be overgenerous in making them, or even to perform his promise in respect to those, which he had undertaken to make, before he ascended the throne; but rather to quarrel with his best friends and supporters, than fulfil his engagements, as appeared in the case of the Duke

<sup>b</sup> Davenant on Resumption.

of Buckingham's claim of a moiety of the Earldom of Hereford. There is however a register of grants, made in the reigns of Richard the Third and Edward the Fifth, preserved in the \* British Museum.

In the reign of Henry the Seventh there was one general, with several particular resumptions, which were probably not much against the inclination of that provident prince, who never objected to any thing by which the crown could be enriched. His insatiable desire of heaping up riches carried him to the most excessive lengths of rapacity and oppression. The means which he used by Empson and Dudley, to extort the utmost farthing which could be wrung from the hands of the subject, are too notorious to need any recapitulation. It might be sufficient, in this place, to observe, that the land, as well as any other revenue, must have been exceedingly increased in this reign, to have enabled King Henry the Seventh to accumulate no less a sum of money than £. 1,800,000 according to Lord Bacon, and still more in Sir Robert Cotton's account, who says that he left behind him in bullion four millions and a half, besides his plate and rich attire,—an enormous treasure, considering the value of

\* Harleian Catalogue in the British Museum, 433.

money in those days. But as some of the oppressive exactions, which were put upon the people by these instruments of the King's avarice, have an immediate relation to the land revenue, I will mention them in Lord Bacon's words, who tell us, that Empson and Dudley, besides extorting great fines and ransoms, which they termed compositions and mitigations (being taken as a satisfaction from persons who were indicted of crimes, and kept in prison without any trial, after the grand jury had been compelled to find bills against them) and besides a great variety of arbitrary proceedings, by attachment, and private summary examination, without jury, in pleas of the crown, and civil pleas<sup>d</sup>, “ did also use to inthral and charge the subjects  
 “ lands with tenures in capite, by finding false offices,  
 “ and thereby to work upon them for wardships,  
 “ liveries, premier seisin, and alienations, being the  
 “ fruits of those tenures; refusing, upon divers pre-  
 “ texts and delays, to admit men to traverse those false  
 “ offices, according to the law. Nay the King's wards,  
 “ after they had accomplished their full age, could  
 “ not be suffered to have livery of their lands, with-  
 “ out paying excessive fines, far exceeding all reason-  
 “ able rates. They did also vex men with informa-

<sup>d</sup> Hist. Hen. VII. p. 99. Lord Bacon's Works, Quarto.

“ tions of intrusion, on scarce colourable titles. Nay,  
 “ contrary to all law and colour, they maintained the  
 “ King ought to have the half of men’s lands and rents,  
 “ during the space of full two years, for a pain in  
 “ case of outlawry in personal actions.” Further we  
 learn from Lord Bacon, that in the 19th of Henry the  
 Seventh the parliament was so obsequious to the King’s  
 will as to chuse Dudley speaker of the House of Com-  
 mons, and so subservient to his rapacious purposes as  
 to make a statute \* for the disannulling of all patents  
 of lease or grant, to such as came not upon lawful  
 summons to serve the King in his wars against the  
 enemies, or rebels, or that should depart without the  
 King’s licence. Upon the whole it cannot be doubted  
 that in the reign of this æconomical and grasping  
 monarch, whose council-table was converted into a  
 court of justice, constantly intermeddling with *meum &*  
*tuum*, the land revenue was very considerably aug-  
 mented.

Having deduced these cursory remarks down to  
 the year 1509, when Henry the Eighth succeed-  
 ed to the crown, we shall enter upon a reign, in  
 which the greatest acquisition of landed property, of

\* Hist. Hen. VII. p. 101.

which

which there is any record in our history was obtained.

It is not intended in this place to give a minute account of the quantity or value of the lands which came to the crown upon the suppression of the monasteries. Whoever wishes to be informed of these particulars, in detail, may consult the very elaborate accounts given by Sir William Dugdale in the *Monasticon Anglicanum*, and by Dr. Tanner in his *Notitia Monastica*. Or if more authentic, or more minute information be required, the original surveys of these possessions, taken upon the dissolution of the respective religious houses to which they belonged, may be found in the Augmentation Office. Nor is it intended to enter into a discussion of the causes of this great revolution in the landed property of the kingdom, or of the circumstances which attended it ; for this topic has already been copiously handled by Dr. Burnet, in his History of the Reformation, and by other writers on that subject. All that is proposed to be done here is to give the reader some idea of the magnitude of the acquisition alluded to.

The number of the monasteries and religious houses in the reign of King Henry the Eighth is said to have  
been



been 645<sup>f</sup>. In the 17th year of that King's reign no less than 21 of those foundations, which had been suppressed by Pope Clement the VIIth were granted by the King to Cardinal Wolsey, for building two Colleges at Oxford and Ipswich; and in the 20th year of his reign, six more were granted to the Cardinal for the same purpose<sup>g</sup>. In the 26th year of Henry the Eighth an exact catalogue was made of the religious houses in Wales, as well as in England, with the annual value<sup>h</sup> of almost all of them; which catalogue was afterwards inserted into the book of the first fruits and tenths. After the suppression of the 27 religious houses granted, as abovementioned, to Cardinal Wolsey, the number remaining was about 618. As the Pope, with the King's concurrence, had given a part of these possessions of the church to the Cardinal, the King, with the assent of Parliament, took the rest himself. In the 27th year of his reign<sup>i</sup> an act of parliament was passed for the suppression of such of the religious houses as were under the value of 200l. per annum. These lesser monasteries were 376 in number; by which a revenue of 32,000l. a year came to the crown, with above a hundred thousand pounds worth of plate,

<sup>f</sup> Dugdale, p. 123.

<sup>g</sup> Ibid. 122.

<sup>h</sup> Ibid.

<sup>i</sup> 27 Hen. 8. cap. 28.

<sup>k</sup> Rapin, vol. I. 809.

goods and ornaments of the churches\*. The greater monasteries did not continue long after. They were not, as the former had been, suppressed by authority of parliament; for the King being desirous of having it appear that these were voluntarily surrendered into his hands, in the year 1539 sent commissioners into the several counties, to receive the surrenders, which the abbots, priors, and monks, were by various means prevailed on, or rather compelled, to execute. But though the power of parliament had not been employed in the suppression of these larger foundations, it was found necessary to have recourse to it, in order to confirm the surrenders which had been obtained, as well as to prevent the operation of a principle of law respecting the revenues of the monasteries which might have defeated the end proposed by the King in dissolving them. It was questioned whether the lands which belonged to the abbies ought to have returned to the founders and donors by way of reverter, or to the lords of whom they were holden, by way of escheat, or to have come to the crown. In order, therefore, to remove all doubts on this point, another act was passed in the 31st year of the same reign<sup>1</sup>, whereby the lands and possessions of all the monasteries

<sup>1</sup> 31 Hen. 8. c. 13.

which

which had been so surrendered or suppressed, and also all other monasteries, &c. which should thereafter be suppressed, were vested in the King, his heirs and successors, and put under the survey of the court of augmentations, which had been erected by act of parliament<sup>m</sup> upon the suppression of the lesser monasteries, purposely for the management of these newly acquired revenues.

The whole number of monasteries suppressed first and last, according to Camden<sup>n</sup>, was six hundred and forty-three (Sir William Dugdale<sup>o</sup> says six hundred and forty-five) together with ninety colleges, two thousand three hundred and seventy-four chantries and free chapels, and one hundred and ten hospitals. The value of the immense revenues annexed to these foundations is differently stated by different writers. Davenant<sup>p</sup> says, they amounted to 131,607l. 6s. 4d. *per annum*. According to Stevens, the author of the history of taxes, they were given in at 152,517l. 18s. 10d. *per annum*. Rapin<sup>q</sup> says, that the yearly value of them amounted to 161,000l. sterling, according to the rate they had been last farmed at, for which he quotes

<sup>m</sup> 27 H. 8. c. 27.  
Abstr. 123.

<sup>n</sup> Rapin, vol. 1. 821, note.

<sup>o</sup> Dugd.

<sup>p</sup> Hist. of Resumptions, 165.

<sup>q</sup> Vol. 1. 821.

Speed and other authorities; and Hume<sup>1</sup> says, it is worthy observation, that all the lands and possessions of England had, a little before this period, been rated at three millions a-year, so that the revenues of the monasteries did not really much exceed the twentieth part of the national income. But as it was the practice of the abbots and priors, in leasing their lands, to set the yearly rents low, and to take fines on granting leases, the real annual value of the lands must have greatly exceeded the rents set upon them. It<sup>2</sup> has been affirmed, that these rents were not above a tenth part of the real value of the property leased; from whence it follows, that the revenues which the crown acquired on this occasion amounted to 1,600,000*l. per ann.* And the editor of Rapin says, some have computed that the value of the lands taken from the monasteries, if they had been sold, would, at the time he wrote, have amounted at twenty years purchase to 30,503,400*l.*

A further acquisition to the land revenue, was obtained by the suppression of the order of the Knights of St. John of Jerusalem, now called Knights of Malta. This order was abolished by act of Parliament,

<sup>1</sup> Hume's Hist. Eng. vol. 3. 222.

<sup>2</sup> Rapin, vol. 1. 823.

32 Henry the Eighth, and the possessions belonging to it (which were very considerable, both in England and Ireland) were given to the King. It is to be observed, that Henry did not confine his rapacity to the revenues of monasteries, and such religious houses ; for in 1542, he obtained a parliamentary repeal of all the local statutes, by which the several founders of colleges and hospitals, and other foundations of that kind had provided, that no deed of surrender by any president, or any number of fellows, should be good, without the unanimous consent of them all ; and having pillaged the regular clergy, he proceeded to the secular, and extorted surrenders of chapter lands from bishops, particularly Canterbury, York, and London.

Notwithstanding the immense acquisition of landed property obtained by the dissolution of the monasteries, and all these proceedings ; we do not find, that Henry the Eighth abstained from requisitions for supplies : for in the same parliament of the 32d of Henry the Eighth, when the great and opulent priory of St. John of Jerusalem was given to the King, he demanded and had a subsidy, both of the clergy and laity ; and another in the thirty-fourth and thirty-seventh

seventh year of his reign ; besides other loans, which he illegally exacted, and received. The pretences used by this Monarch to obtain the consent of Parliament to so very extraordinary a measure as the seizure of these church lands, were curious, and deserving notice. Lord Coke, in his 4th Inst. 44, has stated them at length, and given them as an example to shew, that plausible projects are often proposed to Parliament, and statutes founded upon them, which by no means effectuate the benefits which were promised in the proposal ; but serve to answer some other view, or purpose, of the projector ; and therefore Lord Coke recommends that especial care should be taken to establish, in the same act, effectual provisions for securing the advantages which were suggested as inducements to Parliament to adopt the measure.

“ As it fell out (says Lord Coke) in the reign of  
 “ Henry the Eighth, on the King’s behalf the Mem-  
 “ bers of both Houses were informed in Parliament,  
 “ that no King nor kingdom was safe, but where the  
 “ King had three abilities : 1st, To live of his own  
 “ and able to defend his kingdom upon any sudden  
 “ invasion or insurrection : 2dly, To aid his confe-  
 “ derates, otherwise they would never assist him :  
 3dly,



“ 3dly, To reward his well deserving servants. Now  
 “ the project was, that if the Parliament would give  
 “ unto him all the abbies, priories, frieries, nun-  
 “ neries, and other monasteries, that for ever, in time  
 “ then to come, he would take order that the same  
 “ should not be converted to private use : but first,  
 “ That his exchequer, for the purposes aforesaid,  
 “ should be enriched : secondly, The kingdom strength-  
 “ ened by a continual maintenance of forty thou-  
 “ sand well-trained soldiers, with skilful captains,  
 “ and commanders : thirdly, For the benefit and ease  
 “ of the subject, who never afterward (as was pro-  
 “ jected) in any time to come, should be charged with  
 “ subsidies, fifteenths, or other common aids : fourthly,  
 “ Lest the honor of the realm should suffer any di-  
 “ minution by the dissolution of the said monasteries  
 “ (there being twenty-nine Lords of Parliament of  
 “ the Abbots and Priors) that the King would create  
 “ a number of nobles. The monasteries were given  
 “ to the King, by divers acts of Parliament, but no  
 “ provision was therein made for the said project, or  
 “ any part thereof.” Hume quotes this passage to  
 shew, that the people of England in those days were  
 not anxious for the preservation of their liberties, but  
 desirous to make the crown independent, by a great  
 stand-

standing army, and fixed revenue. Lord Coke's language certainly justifies that notion. His observation, however, is very true, that there was no provision in the act for securing these benefits, if they were deserving that name. But many are of opinion, that Henry did not squander the whole of these immense revenues without some adequate return. Great sums arising from this fund were applied to the fortification of ports in the channel. Davenant says, that he who considers the history of those times, and how much this Prince made himself the arbiter of Europe, will find his money was not so unprofitably spent, as is vulgarly imagined. The numerous and large grants, which Henry made to the Nobility and Gentry, and Deans and Chapters, the erection of new bishoprics, and other expensive and lavish measures, did not exhaust the whole of that fund. For although the King, on his decease, left his treasury so empty, that the sixteen executors of his will, who were also thereby constituted regents of the kingdom, and guardians of his son, during his minority, were for some time at a loss to find means of procuring the payment of the pensions assigned to them; yet the only expedient that could be devised for securing the receipt of these revenues,

revenues, was by the alienation of chantry lands to the amount of five or six thousand pounds a year.

The Parliament in the first year of the reign of Edward the Sixth, in 1547, granted to the King all the lands designed for the maintenance of chauntries, chapels, and colleges, which were not possessed by Henry the Eighth, and all revenues given for obits, anniverfaries, lights in churches, together with all guild lands, which any fraternity enjoyed on the same account:

Upon the accession of Queen Mary, some attempts were made to restore the possessions, which had been taken from the church in the two preceeding reigns. Pope Julius the Third published a bull, excommunicating all who had taken possession of any church or abbey lands, as well as the Princes who favoured them. The Queen endeavoured to promote these designs, by refounding some old monasteries, and erecting new ones, and by abolishing the payment of first fruits and tenths to the crown. Much opposition, however, was made to all the endeavours to restore the abbey lands, for (as Mr. Hume observes) notwithstanding the extreme zeal of those times for and against Popery, the object always uppermost with the nobility

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and

and gentry was their money and estates : and it is remarkable, that in the very same act by which the Parliament repealed all former statutes against the authority of the See of Rome, the grants and conveyances of ecclesiastical possessions to the laity were all confirmed. Indeed the Parliament was not only averse from re-annexing to the church any of the lands and possessions which had passed into the hands of individuals ; but even the bill for restoring the tenths and first fruits, and the impropriations in the hands of the crown, met with great opposition in the House of Commons, though the matter immediately concerned none but the Queen herself ; and upon an application for a subsidy and two-fifteenths, the latter was refused by the Commons, and many members said, that while the crown was thus despoiling itself of its revenues, it was in vain to bestow riches upon it.

In the long reign of Elizabeth, I do not find any very extraordinary accession to the land estate of the crown, though undoubtedly considerable quantities of land must have been acquired, by the forfeitures of several great persons who were attainted in that reign, particularly the Duke of Norfolk, the Earls of Westmorland,

morland, and Effex\*. No refumption took place during all that period; the reason for which, according to Davenant, was, that as a great part of the abbey lands had been alienated from the crown, it was for the security of the Protestant religion, and interest, to keep those lands in the possession of private persons. As there does not appear to have been any great augmentation of land revenue in this reign, so neither does there seem to have been any extraordinary defalcation of it; but considerable mortgages of it were made for payment of the army in Ireland.

In a very curious treatise, written by that famous lawyer Sir John Doderidge, we have an exact account of the land revenue of the Principality of Wales, the Dutchy of Cornwall, and the Earldom of Chester, in the 44th of Elizabeth, with a comparative view of those revenues in the 50th of Edward the Third, at which time a survey of them was taken, in order to allot a dower to the widow of the Black Prince. This

\* The estate, forfeited by the attainder of the Earls of Westmorland and Northumberland, was surveyed in the 12th of Elizabeth, 1569, it extended into the counties of York, Westmorland, Cumberland, Northumberland, and Durham. The survey (which is called the Humberstone Survey, from the name of the first of the Commissioners who made it) is a large volume, and is kept by the King's Remembrancer, in the Exchequer.

treatise contains not only an accurate state of the issue, and profits arising from each county, in the principality, dutchy, and earldom, but also a detail of all the charges and reprizes in each, and a compendious history of their origin, constitution, and government. The totals in this account are as follows :

Clear revenue, by the Survey of Edward the Third.				Clear revenue, by the Auditor's Account in the 44th Elizabeth.			
£.	s.	d.		£.	s.	d.	
4681	12	5	Principality of Wales	1335	2	3 $\frac{3}{4}$	
3415	18	5 $\frac{1}{4}$	Dutchy of Cornwall	3954	2	8 $\frac{1}{4}$	
1304	15	4	Earldom of Chester	388	17	5	

In 1603 King James the First ascended the throne : In the following century we shall find much greater fluctuations in the land property of the crown than in any other, though we shall not in any time find one individual accession to the crown lands of such a magnitude as that which was occasioned by the dissolution of the monasteries, in the preceeding century. Davenant observes, from the annals of James the First, that it was debated in council whether there should not be a resumption. I can find no trace of such a matter having



having been in agitation, from the minutes of the council board; nor could such information be expected from thence, as no notice is taken in the minutes of what passes only in debate. But though no resumption took place, this monarch was not inattentive to his land revenue. Committees were appointed by commission under the Great Seal for repair of the King's estate. Accounts of the proceedings of these Committees are still extant among Sir Robert Cotton's manuscripts; in the British Museum, and in a collection of papers relative to divers branches of revenue, made by Sir Julius Cæsar, chancellor of the Exchequer in this reign, there are copies of commissions of various kinds, which manifest great attention to these affairs. There is likewise extant a very curious document entitled the instrument and schedules of annexation. It bears date the 8th of May, 7th James the First, and is a kind of covenant between the King and some of his principal officers, in which the King binds himself to preserve inseparably to the crown the estates particularised in those schedules. The instrument is of so singular a kind, and so pertinent to the subject of this chapter, that I shall insert it in the appendix <sup>y</sup> at length, omitting only the schedules of the

<sup>y</sup> Vide Appendix, No. 3.

particular estates enumerated at the close of it, which are voluminous. It is sufficient, in this place, to observe, that the first of them, is an account of such parts of the King's land revenue as were then in his own possession, and not in lease, and is entitled, "A Collection of the names of the King's Majesty's castle, mansion-houses, parks, forests, and chaces, within the survey of the Exchequer, and Duchy of Lancaster." The number of each of these was as follows :

Of mansion-houses within the survey of the	}	26
Exchequer - - - - -		

Of castles and forts within the survey of	Excheq.	Duchy.	Tot.
	67	16	83
Parks - - - - -	77	40	117
Forests - - - - -	55	13	68
Chaces - - - - -	7	2	9

The other schedule is entitled, "The names and values of all the manors, lands, tenements, fee-farm and reserved rents, annexed to the crown of England," and the total value of these revenues is stated to be

Of manors, lands, and tenements within the survey of the Exchequer -	}	Tenements.		
		£.	s.	d.
		40,054	10	1
Of fee-farms and reserved rents in ditto - - -	}	16,781 : 12 : 10 $\frac{3}{4}$		
		<hr/> £. 56,836 : 3 : 0		

And of manors, lands, and	}	10,034	0	1
tenements within the Duchy of Lancaster				
-				
Total		<u>£. 66,870</u>	<u>3</u>	<u>1</u>

This very curious instrument purports to be the final completion of a scheme, which was conceived, but not sufficiently digested, in the beginning of the reign. It indicates a great desire of preserving the royal estates, and a high sense of the duty incumbent on the parent of the people, even as a religious obligation, to maintain the inheritance of the crown, and its posterity; but in the sequel we may observe no less anxiety to retain the power of alienation. The debts of the crown are set forth, and care is taken to shew the causes of these incumbrances. Every particular source of expence is mentioned, and amplified, and the whole amount of these charges is stated at above a million of money; and for these reasons the King observes, that he shall be constrained to raise money by sale of some such lands (in fee-farm only) as are not contained in the schedules of this indenture of annexation. From hence it might be supposed, that the King intended strictly to adhere to his covenant; but shortly afterwards, the deed proceeds to assure

assure the parties to it, that none of the lands contained therein shall be aliened, “ otherwise than for  
 “ such necessary and important causes, and in such  
 “ forte, manner and forme, as hereafter in these pre-  
 “ sents is limited and appointed.” And then it declares, “ that the King doth not forget to reserve to  
 “ himselfe (without note of contradiction or incon-  
 “ stancie) full power to dispose of those possessions so  
 “ annexed, upon juste, honourable, and publique  
 “ considerations.” Afterwards his Majesty vouchsafeth to promise *in verbo regio*, as well to himself as to the Lords and others, parties to the deed, that nothing shall be changed in this instrument before the cause shall be certified to him under the hands of eight of the council. I should not have dwelt so long on this matter, if I did not think this proceeding peculiarly characteristic of the Monarch from whom it came. The language and sentiments contained in it are worthy of him, and the whole matter could never have been devised by any one else. It is, indeed, a covenant entered into, *verbo regio*, between the King and himself, for the other parties can hardly be called parties, for they covenant nothing, but only to remain true and constant to his Majesty’s judicial course, and to their own councils. It is a covenant which the King  
 might

might break through whenever he pleased, and seems calculated only to protect himself from the unpopularity of future grants, by an hypocritical appearance of zeal for economy, and the preservation of the revenues and interests of his posterity. We may, however, collect from it (if we believe the assertion in the deed) that at that time the King had been so provident, as to have made his receipts and revenues greater than he found them.

Various commissions for the sale of lands, and for compounding for defective titles and lands concealed, passed subsequently to this indenture of annexation. In the eleventh of James the First (20th December), there is a commission to Lord Ellesmere and others, to sell or lease any manors, castles, &c. contained in certain schedules, annexed to the before-mentioned indenture, 8th May, 7 Jac. This commission, in express words, at once subverts the whole plan laid down in his deed of annexation, for the permanency of the royal land estate; nor could it be expected, that a prince of such a lavish disposition, so habitually attached to favourites, and followed on his accession to the crown of England by such a train of needy dependents, should abstain from touching any fund which was left within his reach. The sale of lands during

the reign of James the First, produced the sum of 775,000l.<sup>z</sup> and his debts on his decease were computed at 700,000l.<sup>a</sup>.

Amongst the many grievous disasters which befel his unfortunate son and successor, Charles the First, the waste and consumption of his land revenue would not be worthy of peculiar notice, in any other place but this; neither is it necessary here to mention the particular instances by which the King conveyed away his property. It is notorious, that when he ceased to have recourse to parliaments for supplies, he was obliged to depend, in great measure, for his subsistence, on sales and mortgages of his lands. This was a solid fund, from which a certain revenue could be drawn; and though very inadequate to his wants, it was sure to be productive to a certain extent. The other numerous and oppressive expedients used by this Prince, to some of which his father was obliged to resort when he governed without a parliament, were temporary, and precarious; as aids, monopolies, purveyance, privy seals for forced loans, protections against prosecutions at law, convictions on, and dispensations with, penal statutes, commissions to compound.

<sup>z</sup> Hume.

<sup>a</sup> Cambell, 532. Polit. Surv.



with Popish recusants, revival of forest laws, compositions for defective titles and concealments, pretermitted customs, sales of titles of honour, and creations of new titles, new corporations and charters, proclamations to enforce knighthood, and compositions for neglecting to receive it; compositions for nuisances, and for building in and about London, prohibitions of all suits tending to the diminution of the King's revenue, loans from peers, ship-money, tonnage and poundage by order of council, without grant of parliament; fines by the star-chamber, enhancing the book of rates, coat and conduct money raised on counties for their respective troops, purchases of the East-India Company on credit, of goods which were sold again for ready money. During the sitting of the parliament at Oxford, in the year 1643, another method of raising money was put in force. The King having obtained from the commons, lists of the monied men in their respective counties, wrote circular letters to every particular person, to borrow a sum in proportion to his ability, of one a hundred pounds, of another two hundred pounds, promising to repay the same as soon as he was able. Lord Clarendon's observation on all these measures is very pointedly true: "Unjust projects of all kinds, many ridiculous, many scanda-

“ lous, all very grievous, were set on foot; the envy  
 “ and reproach of which came to the King, the profit  
 “ to other men; insomuch, that of 200,000*l.* drawn  
 “ by these means in one year, scarce 1500*l.* came to the  
 “ King.”

His Majesty's lands, however, certainly were not in the same proportion unprofitable to him: great sums were raised by grants and mortgages; whoever pleased might have lands from the crown for money; from his own adherents the King borrowed money, giving security on his lands, and sometimes committed those who refused to lend. These violent methods were practised in the latter part of his reign, but we find him resorting to the land revenue for supplying his wants in the early part of it. In 1626 (2 Car. I.), a proclamation was published, declaring the King's resolution to ascertain his revenue, by granting his lands in fee-farm, and a commission was issued to the Lord Treasurer and others, for selling all, or any part of the land revenue (except the Duchy of Cornwall) to any persons, subjects or aliens, willing to purchase the same. This commission was several times renewed and enlarged, in the space of three or four years, and very considerable quantities of land were conveyed away.

It

It is not necessary to state all the commissions granted for selling, demising, compounding, surveying, and enquiring into the King's estates, which may be found in Rymer's *Fœdera*<sup>b</sup>; and it would be endless to enumerate the grants. One transaction, however, was of a magnitude to merit particular notice. In the beginning of this reign the King borrowed a large sum from the city of London on a mortgage of lands. Commissioners were appointed in the second year of his reign, to treat with the city, for discharging these estates from mortgage, either by conveyance of other lands, or of any forests, chaces, or parks, appointed for sale; and accordingly, in the fourth year of this King, three grants were made to trustees for the citizens, in recompence for the monies received from them, which amounted to 320,000*l*. These grants are so voluminous, from the number of estates comprised in them, that the enrolment in Chancery fills three large rolls, and in the Duchy Office a folio volume. No resumption took place in this reign, but many commissions to confirm defective titles; and in the 5th of Charles the First, there was a commission<sup>c</sup> for enquiring into the value of lands, &c. alienated from the

<sup>b</sup> Vid. Rym. Fœd. vol. 18. p. 741. 756. 771. 786. 796. 806. 952. 1031. 1053.

<sup>c</sup> Rym. Fœd. 19. p. 123.

crown since the 45th of Elizabeth, and for compounding with the possessors, grounded on a suggestion that many estates had been granted at an under value.

After the death of Charles the First, the land revenue suffered a very material revolution, or rather a temporary annihilation. The parliament immediately resorted to this fund for paying the debts which had been contracted in raising and maintaining the forces employed against the King. In less than three months after the King's death, the House of Commons came to a resolution to sell so much of the crown lands as would raise 600,000*l.* to pay arrears then due to the soldiery ; and accordingly an act or ordinance was passed in 1649<sup>d</sup>, for vesting all the lands which belonged to the crown (including the Duchys of Lancaster<sup>e</sup> and Cornwall and the Queen's jointure) in trustees, to be sold for those purposes.

<sup>d</sup> Scobell, part 2d. p 51.

<sup>e</sup> For the various instances of the separation of the Duchy of Lancaster from the crown, and of its union to the same. See Mr. Burke's speech on the Reformation of the Civil List, 11th Feb. 1780, p. 29. The Duchy was dissevered from the crown by Henry the Fourth, united by Edward the Fourth, dissevered by Henry the Seventh, and again separated by Cromwell from the commonwealth, to prevent its extinction in the general fall of principalities. Cromwell is supposed to have kept it separate with a view to the aggrandisement of his family.

This first act excepted from sale all forests, and all manors and lands within the perambulations of the same, and all fee-farm rents ; as also Whitehall palace, the Mews, Spring-garden, Westminster palace, Saint James's house and park, Somerset-house, Hampton Court palace, and three parks, the honor and manor of Greenwich, Greenwich house and park, the Tower of London, Windsor castle and little park, Richmond new park, Hyde park, Cornbury park ; all free-schools, public offices, courts of justice, and prisons ; all impropriations, advowsons, and rights of patronage, and the reversions of all estates tail, with some few particulars of less note.

But, by subsequent acts, almost all the particulars thus excepted were exposed to sale, for in the same year 1649<sup>c</sup>, an act was passed, whereby the fee-farm rents, and other excepted rents, with all hundreds, bailiwicks, liberties, &c. were divided to be sold. In 1652<sup>f</sup>, another act was passed, for settling Hampton-Court palace and parks, Hydepark, Greenwich house and park, Windsor little park, Cornbury park, Vaux house, and Somerset house, and also the reversions and remainders of all estates tail ; and in 1653, 54, and 56<sup>g</sup>, several acts were passed for the disaffo-

<sup>c</sup> Scobell, part 2d. p. 106.      <sup>f</sup> P. 227.      <sup>g</sup> P, 272, 321, 348, 396.

restation sale and improvement of the forests. Thus the whole of the land revenue of the crown was put up to sale, for paying the debts of the new government, whose creditors being glad to accept any thing of value in lieu of their debentures, and other securities for money, took conveyances of lands, some at very high rates, and hardly any part of the land revenue that was saleable remained unfold.

In order to dispose of the crown lands, the more advantageously, surveys were taken of almost all of them: many of the original surveys now remain in the offices of the Surveyor General and Auditors of the Land Revenue, and in the Augmentation Office.

Whilst in treating of the various accessions to, and alienations of, the crown lands, we observe, that during the usurpation the whole was aliened; we must, at the same time, take notice of the great accession to the land revenue, in this interregnum, by the seizure of the church lands, which are said to have been sold at a million, and the estates of delinquents (adherents to the King) which amounted to £200,000 a year.

Upon



Upon the restoration of Charles the Second, the consideration of these illegal sales, under the usurped authority, was immediately taken up in Parliament. There are many orders in the Lords Journals for re-instating individuals in the possession of their estates; and a general one for restoring the possessions of the crown, made the 16th of July, 1660, in the following words: “Ordered, by the Lords in Parliament, “ that the King’s Majesty shall be, and is hereby re- “ stored to the possession of all his honours, manors, “ lands, rents, and hereditaments, notwithstanding “ any sales, alienations, or dispositions, made by any “ pretended authorities whatsoever.” Notwithstanding this general restoration of the lands of the crown, that revenue must have suffered a very considerable diminution, by the many concealments which must have taken place, and the many instances of connivance and forbearance which must have occurred, from the extreme hardship of taking away property from *bonâ fide* purchasers, among whom there were many who had rendered service to the King: estates to the value of £10,000 *per ann.* had been purchased by officers of the rebel army, who afterwards promoted the King’s restoration, and who of course were permitted to continue in possession of their purchases.

On the other hand, this event could not but occasion a great accession to the land revenue, by the numerous forfeitures of the regicides, and other traitors, who were not admitted to pardon at the restoration. Had these estates continued in the crown, they probably might have made up for the deficiency unavoidably arising from the above mentioned causes; but most of these forfeitures were granted to the Duke of York (afterwards James the Second) and sold for his use<sup>h</sup>.

The abolition of military tenures<sup>i</sup>, which took place at this period, must be considered as a great revolution in the land revenue. Several attempts had been made in the two preceeding reigns to abolish these tenures. James the First was offered £200,000 a year for this prerogative, with that of purveyance, and Charles the First, in the year 1648, consented to accept £100,000 *per ann.* for the Court of Wards and Liveries. This last sum was the value at which the Parliament,

<sup>h</sup> By an account, dated the 4th of Feb. 1667-8, it appears that there had then been raised for the use of the Duke, by sale of forfeited estates the clear sum of £69,727 3s. 5d. and there were estates to the value of £1800 *per ann.* then unsold, besides many others, which though forfeited did not come into the Duke's possession.

<sup>i</sup> By statute 12 Car. 2. cap. 24.

in 1660, estimated this branch of revenue, and in recompence for it, certain duties of excise were settled on the crown in perpetuity. Whether it was an advantageous exchange for the crown, it is not necessary here to discuss: some writers have stated it as a very hard bargain. Though the hereditary excise might produce as much, or more money, yet the influence of the crown was much diminished: but whether the crown gained or lost by the bargain, it was certainly, at all events, an extinction of what I have, in the former part of these observations, considered as one branch of the antient land revenue.

Upon an inquiry into the state of the King's revenue, by a Committee of the House of Commons, immediately after the restoration, the Committee reported, that the revenue of farms and rents amounted to £263,598 *per ann.* whereof £45,698 18s. 7d. was casual, and for the most part lost; the actual produce therefore was about £217,900, besides £4000 *per ann.* arising from Dean forest. On a similar enquiry, in the year 1663, the Committee reported, that upon consideration of the whole revenue of the crown, in farms and rents, in charge in the Exchequer, and Duchys of Lancaster and Cornwall, they conceived that the same, being

well managed, might amount to £. 100,000 *per annum*. From a comparison of these two reports it may be supposed, that very great alienations of crown lands were made in the short space of about three years. It would be endless to enumerate the many instances of large grants of crown lands made in the beginning of this reign. What might in some cases be justified by the necessity of the times, and considered as a liberal reward for services (such as the grants to the Duke of Albemarle, the Earl of Sandwich, and others who had been principally instrumental in the King's restoration) in other instances proceeded from mere heedlessness, wanton extravagance and profusion. This was the opinion of the Committees in 1660, and 1663, as may be inferred from the resolutions which followed their reports.

The House in 1660 (Sept. 4) Resolved, That a bill be brought in " for settling the lands of the crown, so  
 " as that no grant of the inheritance should be good  
 " in law, nor any lease for more than thirty-one years,  
 " or three lives, where a third part of the true yearly  
 " value is reserved for a rent," and resolved to address the King to forbear to make any leases of lands, or other grants 'till such act should be passed. In 1663  
 the

the Parliament went further : a refumption was recommended by the Committee on that occasion, and a bill was ordered <sup>k</sup> to be brought in for making void all leafes and grants fince the 29th of May 1660, other than for three lives, or thirty-one years, except the lands and rents granted to the Duke of Albemarle, and the Earl of Sandwich. In 1667 the Houfe of Commons refumed the confideration of the land revenue, and ordered <sup>l</sup> the Surveyor General to bring in an account of what part of his Majefty's land revenues, and rents, had been alienated fince 1640. But none of the regulations propofed on thefe occasions, for preferving the land revenue, took place. The power of the crown to alienate its lands continued in force, and was exercifed very lavifhly during this reign. Even the ordinary forms of office were difpenfed with, and fign manuals for grants were frequently iffued from the Secretary of State's Office, without any communication with the Lord Treafurer, from whom all orders refpecting the revenue fhould come ; and this practice was continued, notwithstanding that it had been prohibited by the King's command, fignified to the different offices under the royal fign manual \*. The liberality, or rather profufion, of Charles the Second drove

<sup>k</sup> Journals, 29th May, 1663.      <sup>l</sup> Journals, 12th and 19th Dec. 1667.

\* Appendix, N<sup>o</sup> 6.

him



him to the necessity of selling the fee-farm rents, for which purpose two acts of parliament were passed in the 22d and 23d years of his reign. By the first<sup>o</sup> (entitled an act for advancing the sale of the fee-farm rent) some special privileges were enacted in favour of purchasers, some provisions made for their security, and certain rules or instructions were prescribed for the direction of the persons employed in the business. The rents were afterwards conveyed by letters patent to six trustees, Francis Lord Hawley, Sir Charles Harbord, then Surveyor General, and four others, who were to dispose of them according to the directions of the first act of parliament. The second<sup>p</sup> act was passed for vesting in the same trustees certain small rents, not comprised in the letters patents made in pursuance of the former act, and for making some additional provision for the security and satisfaction of purchasers. But all rents whatsoever belonging to the Principality of Wales were excepted from sale, as were all quit-rents and copyhold-rents, parcel of any manor, and all tenths, and first fruits, and rents reserved *nomine decimæ*. In consequence of these acts almost all the fee-farm rents belonging to the crown in the English counties, particularly the largest and most valuable of them, were

• 22d Car. II. chap. 6.      P 22d and 23d Car. II. cap. 24.



fold. The officers who were chiefly affected by the measure, particularly the Receivers General, applied to the Treasury for a recompence for the loss of their employments; and were allowed an annuity for life, equal to the amount of the fair emoluments of their places, or a sum of money in lieu of such an annuity. The fee-farm rents were not all disposed of at once, nor in one reign; very many of them remained unfold at the death of Charles the Second; and several large grants of those rents were made in the reign of William the Third, and some in the time of Queen Anne. What the sale of them produced is uncertain<sup>r</sup>, and could not indeed be easily ascertained; for though the amount of the purchase was expressed in each conveyance, there were several instances of valuable grants, where the sum was merely nominal, and nothing actually paid, the purchase-money being remitted by royal command. There are some fee-farm rents still remaining in the crown, mostly very small sums; but there were not so many of these rents left unfold as now appear upon the rent-rolls; for many rents, which were actually conveyed away, have not been put out of charge, from the conveyances not having been inrolled with the auditors.

<sup>r</sup> Campb. Political Survey, Vol. II. 295.

In the reign of William the Third, the land revenue was frequently under the consideration of parliament: the immense grants made by that Prince, particularly to the Earl of Portland, excited great alarm; and the House of Commons strenuously endeavoured, at different times, but unsuccessfully, to pass an act for a general resumption. In 1696, a warrant was made for a grant to the Earl of Portland, and his heirs for ever, of the Lordships of Broomfield, Yale, and Denbigh, which Lordships were no less than four parts in five of the whole county of Denbigh, the best and richest part of the country, and thirty miles in extent, with a reservation of 6s. 8d. payable to the crown, from the Earl and his heirs. The principal gentlemen of that part of Wales attended at the treasury, and before the Lord Privy Seal, and were heard at both places against the grant, which was for a time *superceded*, but not being *recalled* a petition was presented to the House of Commons. Upon this occasion Mr. Price (afterwards a Baron of the Exchequer) made a famous speech\*, in which he argued against the grant, from the magnitude of it (stating it to amount to 100,000*l.* in value, and containing above fifteen hundred tenants, and four-fifths of a county) from the inapplicability of

\* Com. Debates, vol. 3. p. 10.

certain dues (called Mises) payable only to a Prince of Wales; from the unalienable quality of the revenues belonging to the Principality of Wales, (which he said might be inferred from their having been excepted out of the act for the sale of the fee-farm rents in the reign of Charles the Second) and from the general illegality of conveyances in fee of crown lands by the King, whom he considered as tenant for life only, with a remainder in succession, and not possessing, and therefore not able to grant a greater estate in the revenues of the crown, than he has in the crown itself; and also from the impolicy, and danger to the constitution, of excessive grants to foreigners. Mr. Price's motion was carried unanimously, for an address to the crown to stop the passing of the grant. His Majesty in answer was pleased thus to express himself: "Gentlemen, I have a kindness for my Lord Portland, which he has deserved of me, by long and faithful services; but I should not have given him these lands, if I had imagined the House of Commons could have been concerned: I will therefore recall the grant, and find some other way of shewing my favour to him." His Majesty performed his promise immediately, and accordingly we find a grant of other manors and lands to the Earl of Portland, in the list

of grants of the year 1696, which was presented to, and read in the House of Commons, and is printed in the Journals'. In 1698, an enquiry was made into the grants passed by Charles the Second and James the Second, and a bill was ordered in by the Commons to make them void. In 1699 another bill was brought in for refusing all grants made since the 6th of February 1684; and on the 4th of December 1699, leave was given to bring in a bill to prevent the further alienation of crown lands, but it did not pass in this reign.

In 1701, the last year of William the Third, the state of the crown lands was again taken into consideration; and on the 9th of April, the Surveyor-general was ordered to lay before the House of Commons "An account of all lands, rents, and estates, belonging to the crown, undisposed of, together with the present values, value of the reversions, and improved rents." By the account made out in pursuance of this order, it appears that the fee-farm, and other rents then belonging to the crown (exclusive of Wales, the Duchys of Lancaster and Cornwall, and the Queen-dowager's jointure) were about 8,500*l.* the stipends

<sup>1</sup> Vol. 11, p. 608.

<sup>2</sup> Vol. 13, 478.

and other charges thereon about 4,800*l.* so that the clear produce did not exceed 3,700*l.* The produce of the land revenue in North and South Wales was stated in the same account at 6796*l.* 8*s.* 3*d.* *per ann.* The pensions, and other annual charges thereon, amounted to 5,652*l.* 10*s.* 9*d.* the clear surplus was therefore only 1143*l.* 17*s.* 6*d.* The Queen-dowager's jointure out of the land revenue amounted to 30,000*l.* *per ann.*<sup>w</sup> It was computed by this account, that only 2,354*l.* *per annum*, of that revenue would come to the crown on the Queen's death, 2944*l.* more after the expiration of the Queen's leases, and 5290*l.* *per annum* after long terms granted by the crown; the rest having been alienated by the reversionary grant made by the crown in the life-time of the Queen.

The improved value of the manors and lands then remaining unalienated, including the Queen's jointure, was computed to be about £40,000 *per ann.* but the greater part of those estates were in lease for long terms then to come, so that the monies arising by fines of leases at this period were very inconsiderable, not being more than £1443 *per ann.* on an average, for the

<sup>w</sup> Journals, vol. 13, 498.

first sixteen years, from the time of making up the above-mentioned account.

To this small remnant we have gradually seen the land revenue reduced; and, in all probability, the whole would have been granted away in a very few years, if Parliament had not put a stop to the further alienation of crown lands. This measure, which had been so unsuccessfully attempted several times since the restoration, was at length effected, by a clause inserted in the act passed in the first year of the reign of Queen Anne, for the support of her Majesty's household, commonly called the Civil List Act<sup>x</sup>.

The preamble to that clause exhibits a striking picture of the reduced state of the land revenue: It recites,  
 “ that the necessary expences of supporting the crown,  
 “ or the greater part of them, were formerly de-  
 “ frayed by a land revenue, which had, from time  
 “ to time been impaired by the grants of former Kings  
 “ and Queens, so that her Majesty's land revenue  
 “ could then afford very little towards the support of  
 “ her government; nevertheless, from time to time,  
 “ upon the determination of the particular estates,  
 “ whereupon many reversions and remainders in the

<sup>x</sup> 1 Anne, cap. 7, sect. 5.

“ crown



“ crown did then depend or expect, and by such estates  
 “ as might thereafter descend, escheat, or otherwise  
 “ accrue or come to the crown, the land revenues of  
 “ the crown might be increased, and consequently the  
 “ burthen upon the subject be eased and lessened, in  
 “ all future provisions for the expences of civil go-  
 “ vernment: to the end therefore that the land reve-  
 “ nue of the crown might be preserved, improved, and  
 “ increased, for the best advantage thereof,” it was  
 enacted, that no future lease or grant shall be good, if  
 made for any term or estate exceeding thirty-one years,  
 or three lives, or some term determinable upon one,  
 two, or three lives, and unless there be reserved upon  
 every such grant or lease the antient or most usual  
 rent, or more, or such rent as hath been paid for the  
 greater part of twenty years before the making thereof,  
 and where no such rent shall have been reserved, then  
 a rent not being under the third part of the clear yearly  
 value: but in order to encourage the repairing or re-  
 building of houses, &c. it was enacted, that where the  
 greatest part of the yearly value of any estate should  
 consist of the buildings thereon, leases might be granted  
 for any term not exceeding fifty years, or three lives,  
 subject to the same rules, respecting the rent to be re-  
 served, as are before-mentioned in the case of leases  
 for thirty-one years, or three lives.

Had

Had such an act as this been passed when it was first proposed in Parliament, by the Committee of revenue in 1660, the land revenue would probably, at this time, have produced four or five hundred thousand pounds *per ann.* considering the increase in the value of land property since that period. Unfortunately these salutary provisions were not made until the subject matter on which they were to operate was almost exhausted. The Parliament was sensible of this fact, when the act was passed; and in the following year a bill was brought into the House for resuming all grants made by King William, and another for resuming all grants made in the reign of James the Second. These two bills were afterwards incorporated into one, and passed through several stages. The Journals of the year 1703 are full of petitions against the passing of such an act, and at length it was stopped. This was the last attempt at a resumption, that I have met with.

There have been some accessions to the land revenue since the passing of the civil list act of Queen Anne, by the dissolution of the Savoy Hospital, in the year 1702, and by a few escheats and reversions of estates granted in tail; and there have likewise been several alie-

alienations of crown lands by authority of particular acts of parliament in each of the succeeding reigns. If the provisions of the civil list act had been extended to all estates that might afterwards have been forfeited to the crown, for treason, felony, or other causes of forfeiture, instead of their being excepted (as they expressly were) from the restrictions of that act, the land revenue might, in time, have regained it's antient value and consequence. The forfeited estates in 1715 amounted to near £40,000 *per ann.* and there were other estates vested in the crown by act of parliament to a considerable value, which had been given to Popish and superstitious uses. All these were directed by parliament to be sold for the use of the public. The beneficial effects of the civil list act have manifestly appeared in the increasing value of the small remainder of the antient land revenue, which now produces in rent several thousand pounds a year more than at the time of passing that act, and in fines on renewing leases, as least, six times as much, notwithstanding that there have been estates granted away by authority of parliament since the first of Queen Anne, at least equal in value to those acquired, and added to the land revenue within that period.

I cannot conclude this chapter without observing, that on the accession of his present Majesty, the whole land revenue was once more alienated from the crown ; but it is only a temporary alienation during the natural life of the King. By the act of the 1st of George the Third, chap. 1. for the support of his Majesty's household, it is enacted, that the revenue arising to his Majesty by rents of lands, or for fines of leases of the same, or any of them, (except the revenues of the Duchy of Cornwall) among divers other branches of revenue which were appropriated towards the support of the household of his Majesty King George the Second, shall, during his present Majesty's life, be carried to and made part of the general or aggregate fund, established by an act of the 1st of George the First, and be issued and applied to the uses to which the said fund is, or shall be, made applicable.

## C H A P. IV.

## Of the PRESENT STATE of the LAND REVENUE.

———Vides ut  
 Nudus inopſque domum redeam.      HOR. SAT.

THE hereditaments of the crown, which compoſe that which is called the land revenue, may be ſaid to be either in poſſeſſion; and actual enjoyment, or in re- verſion, and expectancy.

Of the former kind are, *firſt*, the demifable eſtates, which being actually leaſed out, or in a courſe of leaſing, produce a rent annually, and alſo a fine upon every renewal. *Sec- condly*, fee farm rents, and other rents of various kinds. *Thir- dly*, honors, manors, and hundreds, not in leaſe, but under the care of ſtewards appointed by patent, or by con- ſtitution from the Chancellor of the Exchequer. *Fourthly*, lands in the occupation of the crown, for the convenience of his Majeſty or the public ſervice. And *fiſthly*, all eſtate and intereſt which the crown hath in foreſts and waſtes.

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Of the other kind, which may be considered as being in reversion, or expectancy, are all hereditaments which may come to the crown. *First*, for want of heirs. Or *secondly*, by forfeiture. Or *thirdly*, by the limitation of remainders to the crown.

Of these several articles the land revenue consists, and whatever profits arise from it, are derived from some one of these sources. Let us first consider the hereditaments which are in possession.

The demisable lands are widely scattered all over the kingdom, inasmuch that there are few counties in which the crown has not some lands. This is owing to the variety of means by which the crown became possessed of its estates, as appears from the preceding description of the sources from whence they sprung. These demisable estates are either in actual course of leasing, for terms of 50 years, where the greatest part of the value consists of buildings; or in other cases for 31 years or three lives, according to the provisions of the civil list act of the 1st of Queen Anne; or else they are in lease, upon unexpired grants of long terms made previous to that act. In general the revenue flowing from them is of an improvable nature, as will appear by observing the



the great increase of the fines<sup>y</sup> since the passing of the last mentioned act, as well as the great increase of rents<sup>z</sup> which has taken place in late years, upon leases and grants of reversionary terms. It is not that these estates are particularly improvable from their quality or situation; or that they are in an uncultivated condition, and therefore capable of melioration; but that the revenue arising from them must in many instances increase, on renewals of leases, as many terms are still subsisting, which were granted upon small or nominal rents, antecedent to the civil list act, particularly those which were to commence on the death of Queen Catherine, the consort of King Charles II. or on the expiration of leases granted by her, and which, when they fall in, must be renewed upon reasonable terms according to their real value. It is not intended here to give an account of all the estates held by lease from the crown: such an account \* however has lately been compiled in the Sur-

y Amount of the fines in the first 16 years after the			£.
civil list act, ending in 1717	-	-	23,088
In the next 16 years ending in 1733	-	-	43,152
In the next 16 years ending in 1749	-	-	62,018
In the next 16 years ending in 1765	-	-	103,392
In the next 16 years ending in 1781	-	-	133,508

z Increase of reserved rents from 1769 to 1781 - 3,200.

\* This account is the schedule mentioned in the preface, and forms the first report of the Commissioners of the Land Revenue.

veyor General's office, for the information of the Lords of the Treasury, and delivered to two gentlemen appointed by them to enquire into all particulars from which information might be derived for their Lordships, relative to the management of the departments of the crown lands, woods, and forests: it contains a statement in separate columns of the names of the lessees, the estates which they hold, the dates of the last leases, the terms granted, and the expiration thereof, the yearly value of each estate by the latest survey or estimate, the fines paid for those leases, and the rents reserved thereon. It may be sufficient, for the present purpose, to say that the demisable land revenue of the crown consists of about 130 manors, about 52,000 acres of arable, meadow, and pasture land, about 1800 houses in London and Westminster, and about 450 houses, mills, and cottages, in the country parts of England, exclusive of houses demised with manors or farms; and that the fines paid to the crown, on granting and renewing leases of those estates, amount, on an average, to about £.7500 per ann. and the yearly rents reserved to the crown for the same to about £.13,000 per ann. So that the demised land revenue produces, on an average, something more than £.20,000 per ann. Another account has been made out, for the same gentlemen, of all leases granted by the crown between the 1st of January 1771 and the 31st December 1780, and of the

the fines paid, and rents reserved upon those leases, in which ten years the fines amounted to £.76,308 14s. (or about £.7630 per ann.) and the increased rents, reserved in addition to the rents paid before the granting of those leases, to £.2592 8s. 10d.  $\frac{1}{2}$  per ann. A schedule has likewise been made out, of all leases granted by the crown, and of the fines set by the Surveyor General for the same, between the first of January 1760, and the 31st of October 1782. In this period the fines amounted to £.163,018 0s. 1d.  $\frac{1}{2}$  or, *comm. annis*, about £.7410 per ann. The same gentlemen have likewise had an account of all estates granted in fee since the passing of the civil list act of the first of Queen Anne, by which it appears, that estates to the value of about £.20,000 per ann. have been alienated from the crown, by authority of parliament, since the power of the crown to grant in perpetuity was taken away.

The *second* article of land revenue is the fee farm and other dry rents. A fee farm rent is defined by some writers to be a rent charge issuing out of an estate in fee, of at least one fourth part of the annual value of the lands at the time of its reservation; but the true meaning of *fee farm*, is a perpetual farm, or rent, the name being founded on the perpetuity of the rent or service, not on the quantum.

tum<sup>a</sup>. The reservation of so great a rent as one fourth part, certainly (as Sir William Blackstone observes) makes a grant of lands on such terms rather a letting of lands to farm in fee simple, instead of the usual methods, for life or years ; it was therefore by no means an unnatural mode for the crown to adopt in the disposal of its landed property ; and accordingly a very great proportion of the land revenue consists in fee farm rents. The rents which fall under that denomination amount to about £.23,900, but the real effective fee farm rents are but a small part of that sum ;

<sup>a</sup> Lord Coke seems to intimate the contrary, by confining the denomination of fee farm, to rents at least equal to the fourth part of the value of the land ; and the word is explained in a like manner by Sir Henry Spelman, and the author of the book of Old Tenures, with this difference only, that the latter restricts the value to a third (Spelm. Gloss. voce feodi firma, and Old Ten. tit. fee firme). But it would be wrong to understand any of these writers as intending absolutely and universally to exclude all rents of less value, for the word fee farm most certainly imports every rent or service, whatever the quantum may be, which is reserved on a grant in fee ; and so Lord Coke himself agrees in another work, citing Britton and other books for authorities, 2d Inst. 44 Brit. 164. The sometimes confining the term *fee farm* to rents of a certain value, probably arose partly from the statute of Gloucester, which gives the *Cessavit* only where the rent amounts to one fourth of the value of the land, and partly from its being most usual, in grants in fee farm, not to receive less than a third or fourth of such value. After the statute of Quia Emptores, granting in fee farm, except by the King, became impracticable ; because the grantor parting with the fee, is, by operation of that statute, without any reversion, and without a reversion there cannot be a rent service.

HARGRAVE ON COKE LYT.

for

for there are, included in that sum, rents in arrear and rents granted away (chiefly among those called fee farm rents) amounting to no less than £.17,500 per ann. so that the fee farm rents actually received are not more than £.6,400 per ann. But in the present state of the rent-rolls, with such a load of arrears upon them, it is hardly possible to ascertain, with any degree of precision, the amount of the fee farm rents really due to the crown; for though there are many fee farm rents due which are not received, yet it is certain, that there are many continued on the rent rolls which do not now belong to the crown, having been sold under the acts of 22d and 23d of Charles the 2d, but not put out of charge, many of the conveyances not having been inrolled with the auditors.

Having explained the nature of the demisable lands and fee farm rents, I shall proceed to the *third* article of land revenue in possession, which consists of honors, manors, hundreds, and other hereditaments not in lease, but under the care of stewards. These stewards are appointed either by constitution under the hand and seal of the Chancellor of the Exchequer, or by letters patent. They are almost all during pleasure, and the stewards are paid, either by fees due to them by custom from the tenants of the manors, on the alienation of their copyholds, and on other proceedings  
in

in their courts ; or by certain salaries from the crown, or sometimes by both. For the most part these stewardships are rather a charge on the revenue than a support or encrease of it. The principal appointments of this kind are as follows.

In the English counties.

Berks - - The stewardship of the manor of East Hendred.

The office of bayliffe and collector of the said manor.

The office of bayliffe and collector of the manors of Cookham and Bray.

The stewardship of the honour and castle of Windfor.

Bucks - - The stewardship of the three hundreds of Chiltern.

Cambridge -	}	The office of feodary and bayliffe of the honor of Richmond in these counties.
Suffolk - -		
Hertford and		
Essex - -		

Dorset - - The stewardship of the manor of Portland.

The office of surveyor of all the quarries, piers, cranes, and wains in the island of Portland.

Gloucester



Gloucester - The office of constable and keeper of the castle of Gloucester.

Hertford - The office of keeper of the goal of St. Albans.

Kent - - The offices of high steward of the honor of Oxford, and of bayliffe and collector of the manor of Oxford, woodward of the said manor, and under steward and keeper of the courts.

The stewardship of the manor of Wingham.

Lincoln - - The stewardship of the manors of Barton, Barrow, and Goxhill.

Middlesex - The office of chief steward of the honor and manor of Hampton court.

Oxford and } The office of bayliffe and collector of the ho  
Berks - } nors, manors, and lordships of Wallingford and Ewelme.

Somerfetsh. The stewardship of the lordship and manor of Milverton.

York - - The office of bayliffe and steward of Richmond fee.

The stewardship of St. Mary's near the city of York.

The office of bayliffe and collector of the rents of St. Mary's.

The office of steward, bayliffe, and collector  
of the manor of Thornton in Easing-  
ton.

Norfolk	- }	The stewardship of the honour of Clare in these counties.
Huntingdon		
& Cambridge		

In the principality of Wales.

Anglesey - The office of steward and keeper of the courts  
of Monay.

Carnarvon - The stewardship of the lordships, manors,  
lands, and possessions of the late mo-  
nastery of Bardfey.

Denbigh - The stewardship of the lordship, manor, and  
lands of Denbigh, otherwise Denbigh  
lands.

The stewardship of the lordships of Bromfield  
and Yale.

Pembroke - The stewardship of the lordships, manors,  
lands, &c. in the towns of Pembroke,  
West Pembroke, East Pembroke, Ten-  
by, St. Florence, Emlyn, Diffimbrian,  
the manor of Dyvy, with the castle  
and lordship of Haverford West, Roi-  
bol,

bol, vel Rockpull, Steinton, St. Ismaels,  
Camros, and Roofe.

Brecon	-	-	} The stewardship of the lordships of Mallaine, Caio, Mabelview, Mabedrud, Manor- diloe, Kethinocke, and the fforest of Glyncothy and Pennante, and also of the possessions of the late dissolved Mo- nastery of Talley in the county of Car- marthen. Also the stewardship of Ma- von, otherwise Mavanion, Gwinioneth, Uchardin, Iscoyd, Itherwin, Generglyn, Blaine, Arian, Silian, and Talisarne Green, in the county of Cardigan, the office of Chamberlain of the town and borough of Brecon, and the counties of Brecon, Radnor, and Glamorgan, and stewardship of the lordship and manor of Brecon.
Carmarthen			
Cardigan	-		
Glamorgan			
and Radnor			

Brecon - - The stewardship of the manor of Penkelley.

Radnor - The stewardship of the manors and lordships  
of Millenith, Gwerthriman, Comotoy-  
der, Presthend, and Preston Land,  
Knighton and Glandestric, and of the  
boroughs of Knighton and Preston.

Cardigan - The stewardship of the lordships and manors

of Mavenneth, Croythin, Hanayniocke,  
Caerwedros, and Perveth.

The *fourth* species of estate in possession, consists of lands retained in his Majesty's hands, either for his own convenience or the public service : of the former sort are the palaces and parks : the latter sort are the castles, forts, docks, hospitals, and public offices, and places vested in the King for the use and protection of the country.

The King's palaces and houses are chiefly these.

Westminster palace, containing the Houses of Parliament,  
and Courts of Law.

Whitehall palace.

St. James's palace.

Windfor castle.

Hampton court.

Kenfington palace.

Kew Palace.

Greenwich palace.

Newmarket palace.

The King's house at Winchester.

Carlton House.

Somerfet house.

The Mews.

The Queen's palace.

The Queen's palace at Windfor.

The King's parks are,

St. James's park.

Hyde park.

Windfor

Windfor great and little parks.

Hampton court parks.

South or Bushy park.

Richmond park.

Sheen park, als. Richmond little park.

Greenwich park.

Bagshot park.

The *fifth* and last kind of estate in possession, although not in its present state productive of any considerable revenue, is of such a nature, that it may be rendered, and in all probability will become, of very great value and importance; I mean the interest which the crown hath in the forests, chaces, parks, warrens, and wastes, in England and Wales. Upon the contingency of the enclosure and improvement of these wastes, great allotments will probably be given to the crown, in compensation of its extensive rights and royalties. These allotments will of course be in different proportions, according to the nature and extent of the King's rights in the several instances.

Previous to the execution of this great measure, many steps must be taken to gain information on the subject, and above all things, great care should be used to render it palatable to the principal proprietors, and popular in the country.

country.---Great difficulty will be found in obtaining the necessary information in this business: much useful intelligence may be obtained from the Surveyor General's Office, but that must be very insufficient without gaining intelligence from persons resident on the spot, or in the neighbourhood, nor can complete knowledge be had without actual surveys. In this place I shall only enumerate the several forests and chaces, mentioning under what survey they are placed, and distinguishing such as are deemed real forests, from those which are now reputed to be merely nominal.

List of forests and chaces in England and Wales.

(1.) Real forests which are reputed to have preserved their *jura regalia*, that is, the jurisdiction, laws, courts, officers, game, and boundaries.

Counties.				Under what survey.
Berks, Wilts, and Surry -	}	Windfor forest	-	Exchequer.
Effex -		Waltham forest	-	Ex.
Gloucestersh.		Dean forest	-	Ex.
Northampton		Rockingham forest	-	Ex.
		Whittlewood forest	-	Ex.
		Salcey forest	-	Ex.
Nottinghamsh.		Sherwood forest	-	Ex.
				Oxfordsh.



Oxfordsh.	Whichwood forest	-	-	Ex.
Southampton	New forest	-	-	Ex.
	Bear forest	-	-	Ex.
	Wolmer forest and			
	Aylesholt		-	Ex.

Nominal <sup>b</sup> forests and chaces, some of which have been inclosed, and are demised as part of the land revenue, and in others the rights of the crown have been totally granted away.

<sup>b</sup> Many of these antient forests were disafforested by the operation of the statute of 16 Cha. I.—which act was made in consequence of the oppressive revival of the forest laws. Lord Clarendon, p. 22, says, that “to recompence the damage the crown sustained by the sale of the old lands, and by the grant of new pensions, the old laws of the forest were revived.” A court of justice seat had been held under the Earl of Holland (who made the last iter that ever was, excepting that held under the Earl of Oxford in Charles II. (North’s Life of Lord Guilford, p. 44.) and many severities used, and the boundaries of the forests extended, which occasioned the act in 1640. The statute provides that the meets, meers, and limits of the forests, shall be deemed to extend no further than they were used in the 20th of James I. and that all presentments, judgments, awards, perambulations, surveys, extents and other acts, at any justice seat, swainmote, court of attachments, &c. under colour of any acts done without the said limits, shall be held void. And that no place where none of those courts have been held, or where no verderers have been chosen, or regard made, within 60 years before the beginning of the reign of Charles I. shall be deemed a forest. The stat. also directs the issuing of commissions to enquire upon oath of the boundaries in the 20th of James I. For further provisions concerning forests, vid. 20 Car. II. c. 3.—9 and 10 W. III. c. 36.—5 G. I. c. 15.—9 Geo. I. c. 22.—28 Geo. II. c. 19.

Berks

Berks	-	-	Cranbourne chace	-	-	Exchequer.
Bucks	-	-	Whaddon chace	-	-	Ex.
			Barnewood forest	-	-	Ex.
Chester	-		Delamere forest	-	-	Ex.
			Macclesfield forest	-	-	Ex.
Cumberland			Ennerdale forest	-	-	Ex.
			Nicholl forest	-	-	Ex.
			Inglewood forest	-	-	Ex.
			Gueltsdale forest	-	-	Ex.
Derbyshire			Duffield forest	-	-	Duchy Lancas.
Dorsetshire			Gillingham forest	-	-	Exchequer.
Devon	-	-	Dartmore forest	-	-	Duchy Cornw.
			Exmore chace	-	-	Exchequer.
Durham	-		Teasdale forest	-	-	Ex.
			Marwood Hagg chace	-	-	Ex.
			Langley forest	-	-	Ex.
Gloucester			Crofs Lawn chace	-	-	Ex.
			Kingfwood forest or chace			Ex.
Herefordsh.			Mocktree, Bringwood, and			
			Dorvall forest	-	-	Ex.
Huntingdon			Somersham chace	-	-	Ex.
Lancaster	-		Quernemore forest	-	-	Duchy Lancas.
			Wyerfdale forest	-	-	Duchy Lancas.
			Amoundernefs forest	-	-	Duchy Lancas.
			Bowland forest	-	-	Duchy Lancas.
						Lancaster

Lancaster	-	Blackburnshire forest	-	Duchy Lancas.
Leicester	-	Leicester forest	-	Duchy Lancas.
		Charnewood forest	-	Exchequer.
Middlesex		Enfield chace	-	Duchy Lancas.
Northumber.		Bywell forest	-	Exchequer.
		Bulbeck forest	-	Ex.
Oxford	-	Shotover and Stowood forests		Ex.
Pembroke		Kevendrin forest	-	Ex.
Rutland		Leighfield forest	-	Ex.
Salop	-	Morfe forest	-	Ex.
Somerfet	-	Sellwood forest	-	Ex.
		Rocke	-	Ex.
		Mendip	-	Ex.
Stafford	-	Needwood forest or chace		Duchy Lancas.
Suffex	-	St. Leonard's forest	-	Exchequer.
		Ashdown forest	-	Duchy.
Southampton		Buckholt forest	-	Ex.
		Chute forest	-	Ex.
		Parkhurst forest (in the Isle of Wight)	-	Ex.
Warwicksh.		Killingworth forest or chace		Ex.
Wilts	-	Braydon forest	-	Part Ex. part Duchy.
		Blackmore als. Melksham forest		Ex.
		Pewsham als. Chippenham fo- rest, and Blackmore forest		Ex.

R.

Savernake

	Savernake forest	-	-	Ex.
	Pannhill forest	-	-	Ex.
	Melshett forest	-	-	Ex.
Worcestersh.	Wyer forest	-	-	Ex.
	Malverne chace	-	-	Ex.
	Feckenham forest	-	-	Ex.
York - -	Galtres forest	-	-	Ex.
	Hatfield chace	-	-	Ex.
	Hardwick forest	-	-	
	Arkelgarthdale forest	-	-	Ex.
	Knareborough forest	-	-	Duchy Lancas.
	Pickering forest	-	-	Ditto
	Wharfedale forest	-	-	Ditto
	Swynden forest	-	-	Ditto
	Okeden forest	-	-	Ditto
	Harlow forest	-	-	Ditto
	Fullwith forest	-	-	Ditto
Archdeacon-}				
ry of Rich-}	Coverdale forest	-	-	Exchequer.
mond - }				

## Forests in Wales.

### South Wales.

Pembroke      Kevendrin forest

Nerbert

	Nerbert forest
	Coydrath forest
Radnor	- Acwood and Cumbergwynne forests
	Radnor forest
	Colwin forest
	Knocklas forest
	Newith forest
Glamorgan	Neath forest
Brecon	- The great forest of Brecon
	The little forest of Brecon
Cardigan	Llefnewith forest
Carmarthen	Glyncothic and Pennant forest
	Cardiff forest

#### North Wales.

Carnarvon	Snowden forest
	Amouth Nanfanth, Bradfos, and Gwernellin forest
	Moilender forest
	Carnedon, Kerry, Llanglonghairon and Tregarmon.
Denbigh	Bromfield and Yale forest
	Diffriincloyd forest.

Forests, chaces, parks, and warrens, have each a distinct signification :

A Forest<sup>c</sup> is a certain territory of woody grounds and pastures, privileged for wild beasts and fowles, of forest, chace, and warren,<sup>d</sup> to rest and abide in, under the protection of the King, for his princely delight and pleasure; which territory of ground so privileged is meered and bounded with unremovable marks, meers, and boundaries, either known by matter of record, or else by prescription; and also replenished with wild beasts of venerie or chace, and with great covers of vert, for the succour of the said wild beasts, to have their abode in. For the preservation and continuance of which said place, together with the vert and venison, there are certain particular laws, privileges, and officers, belonging to the same, meet for that purpose, that are only proper to a forest, and not to any other place.

A Chace differs from a forest in these respects, that it is subject to the common law of the land, and has no particular laws of its own; that it has no privilege of courts and jurisdictions peculiar to it; that it has not the same officers as forests have, and that it is for the preservation of beasts of chace or warren.

<sup>c</sup> Manwood's Forest Laws, p. 1.

<sup>d</sup> Manwood, p. 7.



A Park differs from a chace, being inclosed with a fence, for the preservation of beasts of forest, chace, and warren, and other property, at the pleasure of the proprietor, subject to the common law, and defended by many statutes.

A Warren is an enfranchised district, either enclosed or open, privileged for the preservation of beasts and fowles of warren, subject to the common law.

Having described the estates in possession, it remains only in this chapter to speak of those which are in reversion or expectancy, namely, escheats, forfeitures, and remainders. Reversion happens by mere operation of law ; thus, lands revert to the crown for want of heirs ; for the King being the ultimate lord of the soil, the lands return to him from whom they were originally granted. This devolution of property is called Escheat. The crown now seldom acquires any estates by escheat : it rarely happens that estates are left undisposed of by testament, and without any one to claim them as heir at law ; and where it does happen, there is generally some one whose interest it is to conceal the fact, whilst, on the other hand, there is no adequate provision, no office furnished with sufficient means for the discovery of cases of escheat. There have, indeed, from very early times, been escheators, whose office is properly  
to

to look to escheats, wardships, and other casualties belonging to the crown. In antient times there were but two escheators in England<sup>e</sup>, one on this of Trent, and the other beyond Trent; at which time they had subescheators. But in the reign of Edward II. the offices were divided, and several escheators made in every county for life, and so continued until the reign of Edward III. Afterwards by stat. 14. Edward III. it is enacted that there should be as many escheators assigned as when King Edward III. came to the crown; which was one in every county; and that no escheator should tarry in his office above a year; and by another stat. the same person was to be in office but once in three years. These escheators were named by the Lord Treasurer. But since the abolition of the Court of Wards this office has become of little use, neither is there any institution by which the right of the crown in cases of escheat is sufficiently protected.

Forfeiture is another title by which the crown may acquire lands, and takes place also by a kind of reversion, the lands returning to the original lord, on the corruption of the blood of the tenant; the donation of the feud being always on the implied condition of *dum bene se gesserit*: so that when the vassal has committed a crime, by which

his blood is stained, the King takes his lands *propter defectum sanguinis*; and therefore, whether the lands revert to the crown by the failure of heirs, or *propter delictum tenentis*, in either case it may be said to be *propter defectum sanguinis*. There are various other cases where forfeiture takes place, which need not be here enumerated. It is sufficient here to observe, that the internal peace and tranquillity, with which this country has now for many years been blessed, has occasioned this title by forfeiture to occur very seldom. Though escheats and forfeitures are uncommon events, it still less frequently happens that the crown succeeds to lands by the third species of estate in expectancy, namely, Remainder.----Remainder takes place by the mere act of parties to some conveyance, whereby it is settled that the lands shall go to the crown after an estate tail, or some other particular estate which is first carved out of the fee.

I shall



I shall conclude this chapter with A short View of the Produce of the Land Revenue, and the Charges thereon.

	£.	s.	d.
Gross amount of Rents, as they stand in charge before the several Auditors of the Land Revenue	36,720	7	1

From which must be deducted,

Rents granted away for ever, but still continued on the rent-rolls,	£.	s.	d.
Rents granted for terms, and Arrears, <i>communibus annis</i> ,	17,530	15	10
Land-tax allowed and deducted from the rents received, <i>communibus annis</i> ,	3,505	12	7
	<hr/>		
	21,036	8	5
Clear average produce in rents per ann.	15,683	18	8

Fines for leases, on an average of ten years, from 1772 to 1782 (exclusive of £.27,100 paid for two grants in fee)	£.	s.	d.
	7,700	0	0
	<hr/>		
Clear average produce in rents and fines, per ann.	23,383	18	8

S

Brought

	£.	s.	d.
Brought over	23,383	18	8

Pensions, salaries, and other payments  
charged on the Land Revenue.

Perpetual pensions and other eleemosynary payments, and grants of annuities to individuals	£.	s.	d.
	4,794	17	7

Salaries to Keepers of Prisons and Castles, Rangers of Forests and Parks, &c.	991	0	7
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Salaries and allowances to the Welch Judges, Sheriffs, and other officers of the Principality	1,446	10	9
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Salaries of the Commissioners of Taxes, and incidents in their office, which have been usually paid out of the Land Revenue, by warrant from the Treasury	1,322	0	0
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	8,554	8	11
Residue	14,829	9	9

Charges of management.

Fees and wages to the Auditors, Receivers, and other Officers, and incidental charges relating to the Land Revenue	3,999	8	3
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Clear surplus per annum, about	10,830	1	6
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## C H A P. V.

## Of the MANAGEMENT of the LAND REVENUE.

———Non, si male nunc, et olim  
 Sic erit.——— HOR. CARM. lib. 2.

IT is not intended in this place to enter into any controverſy concerning the beſt mode of managing the lands belonging to the crown, but only to give ſome account of the manner in which they are now managed. The demifable eſtates of the crown are let to tenants, for terms of 50 or 31 years, under certain yearly rents, and upon payment of a fine upon every renewal, proportionable to the value of the eſtate granted. Conſequently, we may preſume, that lands ſo paid for are not left without proper care and tillage, and in fact they are as well cultivated, and turned to as much profit, by the leſſees, as any other eſtates. The beſt mode of deſcribing the manner in which the land revenue is now managed, may be by tracing the courſe of office, through which every grant or leaſe of lands muſt paſs.

The forms of proceeding, in order to obtain a grant of lands in fee, are described by Davenant, in his discourse on ministers impeached for procuring grants. The course of office still remains nearly the same, in respect to grants in fee; excepting only, that he has omitted the reference to the Surveyor General, in whose office the principal part of the business is transacted; and that since the civil list act of 1 Queen Anne, grants in fee cannot be made without an act of parliament. He says, that regularly, and according to the laws of the land, grants from the crown ought to take the following course.

“ The petition is first made to the King, in which the petitioner ought to insert the true express value of the thing demanded. The King refers this petition to the Treasurer of the Exchequer, whose first step is to have a particular of the thing petitioned for, from the Auditor if it lies before him, or from the King’s Remembrancer if it lies before him. This care is taken that the state may not be deceived in the value of the thing. The petition is first referred to this high officer, because the law presumes that the whole state and condition of the revenue lies before him; that he knows what debts and engagements the King has upon him; and whether the expences of his wars, and the other necessary charges of his government,

are not such, as, for the people's ease, and by the rules of justice, ought for the present to restrain his bounty. If the thing to be granted be of great value; if it cannot be given away without great damage to the crown; if by reason of such gift he is hindered from paying his just debts, or from having wherewithal to defray the charges of the government, and to provide for the kingdom's defence; or if by this and other gifts he must be driven, through the failing of his own revenue, to lay heavy burthens on the people; it is the duty of the Lord Treasurer to represent the whole matter honestly and impartially to the King; and to hinder the grant from proceeding any further: if the grant meets with no objection at the Treasury, the King signs a warrant directed to the Attorney or Solicitor General, empowering him to prepare a bill, containing such a grant: and if the grant be of money appropriated by act of parliament, or of lands annexed to the crown by act of parliament; or if the grant be any ways illegal, or prejudicial to the crown, it is the Attorney and Solicitor General's duty to advertise thereof. After Mr. Attorney has passed it, it goes to the Signet, the custody whereof is in the Secretary of State; who, being a minister in high office, is presumed by the laws to be watchful for the King's good, and to enquire into all matters relating to the weal public. He is presumed to be

be

be apprised of the person's merits to whom the grant is to be made ; and likewise to understand either the affluence or want in the King's coffers, and the general condition of his revenue ; and having an allowance for intelligence, he is presumed to know the discourses and opinions of the people, and how such grants are relished. If, therefore, the person suing out the grant has no merit at all, or at least no sort of pretension to so great a reward ; or if he knows the public to be pressed with wants and debts ; or if he hears, that the people murmur at the taxes which profusion introduces, and clamour to see the nation's money wasted ; by his duty as a Privy Counsellor, and by his oath, he is bound faithfully and plainly thereof to inform the King. From the Signet it should go to the Privy Seal, who is likewise another great officer, who being near the person of the King is presumed to know the condition of the kingdom ; and therefore the law has made him another check : so that, if the Lord Privy Seal finds, that through corruption in other offices ; or that by power, importunity, or partial favour, a grant tending greatly to the public damage, and the diminution of his prince's revenue, has passed so far as to his office ; he ought to stop it there, and is bound by his duty, and his oath, to lay the whole matter before the King. From the Privy Seal it goes to the Great Seal, in the custody of the Lord Keeper,

or Lord Chancellor of England, who is accounted the kingdom's as well as the King's officer; and there the grant is compleated; upon which score, in the eye of the law, this great minister is most looked upon; so that more than any other, as the highest officer, and as the last check, the laws presume him to consult for the King's good. Therefore, if the grant be exorbitant; if it be made to an undeserving person; if it notoriously surpasses the merits of the suitor; if it was obtained upon wrong suggestions; if it occasions obloquy to the government, or discontent among the people; if the King's debts are many, and clamorous; if the nation labours, at the same time as the gift is made, under heavy taxes; and if the grant tends greatly to the hurt and impoverishment of the crown; he is bound by duty, and his oath, not to fix the Great Seal to it, but thereupon faithfully and impartially to advise the King: and Chancellors who have acted otherwise, contrary to the trust of their office, have been questioned, impeached, and attainted in parliament."

The forms observed in passing a lease, are different from those in the preceding case of a grant in fee. The petition is first presented to the Treasury, containing the grounds of the request; and if it be an application for a renewal or for a reversionary lease, it should also state the title and the number

ber of years unexpired. This petition is referred to the Surveyor General ; and the Lords of the Treasury, in their reference, direct him to enquire into and report to them the circumstances of the case, with his opinion on the general question of what is fit to be done in the whole business. The report of the Surveyor General is the most important part of the transaction ; and has much weight with the Treasury, both as to the persons to whom, and the terms on which the lease shall be granted.

The office of Surveyor General, as it is at present constituted, is not of ancient date, though the functions of it must have been performed as long as there has been a land revenue. But it has, at different times, been executed in different modes.

In the early periods of our history, the utmost attention was paid to surveys, both by our Kings and by Parliament, as appears by the very elaborate works of that kind still remaining, which have been before mentioned, and by the statute, entitled, *Extenta manerii*<sup>f</sup>, particularly expressing the manner in which surveys shall be made. Henry VIII. by act

<sup>f</sup> 4 Edward I. cap. 1. Vide Fitzherbert's Reading on this stat.



of Parliament<sup>g</sup>, erected a court, called the Court of General Surveyors of the King's Land; an institution which consolidated in one body all the offices relating to the land revenue. It was constituted a court of record, and was to have a Privy Seal; and the officers thereof were the King's General Surveyors, a Treasurer, (viz. the Treasurer of the King's Chamber for the time being) an Attorney, the Master of the Woods, Auditors, Receivers, a Clerk of the Court, an Usher, and a messenger; whose several oaths, duties, and authorities were appointed by the act. This court was not of long duration; for the same King, by letters patent, in the 38th year of his reign, dissolved both that and the Court of Augmentations. But a question arising, in respect to the authority of the King's letters patent to dissolve courts which had been created by authority of Parliament, the dissolution was held void<sup>h</sup>, and was therefore confirmed (as were also the letters patent of Henry VIII. for erecting a new Court of Augmentations) by a subsequent act of Parliament<sup>i</sup>. Afterwards we find, that there were particular surveyors of counties and districts<sup>k</sup>; appointments, which probably existed before the erection of the Court of Gene-

<sup>g</sup> 33 Hen. VIII. cap. 39.    <sup>h</sup> 4 Inst. 122.    <sup>i</sup> 7 Edw. VI. cap. 2.

<sup>k</sup> In a volume of papers collected by Sir Julius Cæsar, Chancellor of the Exchequer in the reign of James I. there are several letters and reports of Surveyors of particular counties.

ral Surveyors, but which ceased in the reign of James I. when the office of Surveyor General was constituted nearly in its present form. This alteration was recommended by a committee, appointed in 1612, by commission under the Great Seal, to consider of the means of repairing the King's estates, and of raising of moneys. In an account of their proceedings, preserved among Sir Robert Cotton's MSS.<sup>1</sup> we find this advice : " It is fit that plots and books of survey were made of every one of his Majesty's manors, and returned into an office, and so the particular surveys of counties dissolved ; for of old there was only one *citra*, another *ultra Trentam*." To this recommendation the office of Surveyor General seems to owe its origin. I do not mean, that from that period it has been regularly administered in its present course ; but that from thence it derives its existence in the form in which it now stands. We have seen, in a former chapter, what great revolutions the administration of the land revenue underwent in the succeeding reign, and during the troubles. The surveys taken in the interregnum for the purpose of selling all the crown lands, and which are now called the Parliamentary Surveys, were not, neither could they possibly have been, made by a Surveyor General, but by many persons employed at the same

<sup>1</sup> Cleopatra, p. 6. in Museo Brit.

time in different parts of the kingdom. In 1649, the act or ordinance of Parliament<sup>m</sup> for the sale of the lands, &c. of the late King, Queen, and Prince, vested them in twelve trustees, who were empowered to appoint persons to survey the premises. These surveyors were authorized to hold Courts of Survey, and were directed to return their surveys to the Register appointed by the act, who was to send them to the Surveyor General named in the act for his examination: from him the surveys were again to be returned to the Register, who was then to make forth particulars, describing the estates, and expressing the value of them; and these particulars were to be the ground on which the contractors were to proceed in the sale. In 1654, another act<sup>n</sup> was passed for appointing commissioners to keep Courts of Survey for surveying the forests. Thus the ordinary course of the Surveyor General's office was superseded by authority of Parliament, for this great purpose of a general exposition to sale of all the Crown Lands. After the Restoration also, there were frequent instances of deviation from the regular course of office, by the substitution of warrants from the Secretary of State's office; and lands were granted away by Charles II. at the personal request of his favourites, with-

<sup>m</sup> Scobell's Collection, page 51 of the second part.

<sup>n</sup> Scobell, 322.

out any reference at all to the Surveyor General, or even to the Treasury °. But from the passing of the civil list act in the 1st of Queen Anne, to this time, the reference to the Surveyor General has been uniformly observed ; and his reports have furnished materials to the Treasury, to decide both to whom, and on what terms, the grant should be made.

In respect to persons who may apply for grants, they must either be petitioners for a fresh grant, or persons claiming some interest in a grant actually subsisting. In the former case, it is purely optional in the crown, and a mere matter of favour, to make grants to any one whom the King may graciously please to prefer, excepting that in the instance of a person making a discovery of lands withheld from the crown, either by fraud or concealment, or by the neglect of the proper officers, the person who shall bring to light and prove the title of the crown, in consideration of his merit and services in that respect, is generally allowed to have a grant of the lands, on proper terms and conditions. In the second case, where the petitioner has already an interest in the lands for which he applies ; as where he has the remainder of a term in being, and prays for a renewal or reversionary grant ; there he has a kind of equitable claim

° Vide Appendix, No. VI.

to a preference before any other petitioner. It is commonly called a tenant-right<sup>p</sup>; and, though it is not such a right as can be obtained by resorting to a court of law or equity, (there being no means of compelling a renewal, nor any redress given by the law to those to whom it is refused) is yet such a pretension to favour, as is much attended to by the crown, and seldom denied, but for strong and extraordinary reasons. Sometimes it is disputed between parties petitioning, which of them is entitled to this tenant-right. When this happens, the Surveyor General gives his opinion to the Treasury on their several claims and pretensions; or, if there is such an intricacy in the title, and such difficulty in matter of law, as he is unable to solve, he recommends it to the Treasury to consult the Attorney or Solicitor General. Sometimes the parties are heard by Counsel before the Board of Treasury; and there have been instances of Counsel attending the Surveyor General on behalf of contending petitioners.

The terms on which crown leases are granted are also settled by the Surveyor General. On receipt of a reference from the Treasury, he examines into the circumstances of the case, as they appear from the muniments in his office; and if he

<sup>p</sup> The case of Lee and Lord Vernon in 1776. Bro, Parl. Cases, vol. 7.

does

does not find any accurate plan and account of the estate, or if the plan is of so old a date, as that there may be reason to suppose that alterations may have taken place, or the value of the property have changed, he then directs a fresh survey and valuation to be made, by persons in whom he confides. When he has obtained a complete account of the estate, his next business is to make his report, in which he recommends whatever he may think adviseable in the whole matter, and fixes the rent and the fine. Without entering largely into all the rules, and the minute differences of various cases, it may be sufficient to observe, that on granting a lease of any lands for which no rent has been before reserved, the rent must be not less than a third part of the clear annual value, by the civil list act of the 1st of Queen Anne. The increase of ancient rents sometimes seems hard to persons who have been used only to pay a nominal rent or mere acknowledgment. But it is really no hardship at all ; for the leases having been granted at these small rents formerly, as a matter of favour, is no reason why they should be so continued. Neither is it possible now to grant the property of the crown for mere acknowledgements, consistently with the civil list act of the first of his Majesty ; nor would it be reasonable so to do, whilst the land revenue is with so much difficulty made to answer the charges upon it : the encrease of the rent is no  
hardship,



hardship, for the rent *de incremento*, is deducted out of the annual value ; and the fine is diminished, in proportion as the rent is encreased ; and whether the tenants pay in fine or in rent, the value of the bargain is the same---Many are of opinion, that taking fines is an improvident mode of management. But in the case of the crown it is attended with these advantages ; that the inconveniencies frequently happening to private landlords by the failure of tenants is entirely avoided, the rent being amply secured, by the tenants having already laid down the principal sum in the fine : this mode of management likewise secures to the crown responsible tenants, as none but persons of substance are able to deposit so considerable a portion of their payment in advance ; the tenant also is encouraged to improve the estate, when the benefits resulting from his improvements are ensured to him by a lease at a moderate rent. The fines are calculated upon reasonable rates of interest ; and, upon the whole, the tenants of the crown have rather more advantageous bargains than corporations, either civil or ecclesiastical, are accustomed to grant.

When the Surveyor General's report is transmitted to the Treasury, the Lord Treasurer, or Lord's Commissioners of the Treasury, consider and decide on the application. If they approve the report, a warrant issues to the Surveyor

veyor General, to authorize and require him to make forth a *constat*, or send to the Auditor for a *particular* of the premises, and to *rate* the same, in order to the passing the lease accordingly. The *constat*, or *particular*, contains a description of what is to be granted ; with a recital of all subsisting leases. The only difference between a *constat* and a *particular* is, that the former (which is made by the Surveyor General) is used in all cases where either the estate has not been in lease before, or where any inaccuracy in the description of a former lease, or any variation in the state of the premises, by building or otherwise, may render an alteration of the former description necessary ; but that a *particular* (which is made out by the Auditor, on receiving a warrant from the Surveyor General for that purpose) is an exact transcript of the description from the former lease, taken from the inrollment. When the *constat* or *particular* is completed, the next proceeding is the Surveyor General's *rate*, which contains a specification of the terms and conditions upon which the new lease is to be made. The *constat* or *particular*, and *rate* are transmitted to the Treasury, from whence a warrant is issued to the Clerk of the Pipe, to prepare the lease according to the description in the *constat* or *particular*, and on the terms expressed in the *rate*. The Deputy Clerk of the Pipe or Clerk of the Leases in the  
Pipe

Pipe office then draws the lease, and having made a fair copy of the draught, on parchment, unstamped, (which is called the transcript,) he transmits it to the Chancellor of the Exchequer, by whom it must be signed in his capacity as Chancellor. From him it goes to the Treasury, and having been signed by the Lords, and returned to the Pipe office, is then engrossed on parchment properly stamped, and having been examined and attested by the Deputy Clerk of the Pipe, is finally sent to the Chancellor of the Exchequer, who compleats the lease by affixing his seal of office. Afterwards, within six months from the date of it, the lease must be enrolled in the Auditor's office, and a minute or docquet of it entered in the Surveyor General's office.

By thus tracing a lease through the course of office, I have in some measure described the functions of the officers concerned in that business. But some of them have still further duties in the care of the land revenue, particularly the Surveyor General. He is bound by his oath of office, among other things, according to the best of his power, diligently to procure all things to be done which may honestly and justly tend to the King's advantage and profit, and to the augmentation of the rights and prerogatives of the crown. It is his duty, not only to

act in the manner above stated, on references from the Treasury, but to take up, of his own accord, whatever he sees either beneficial or detrimental to the King's possessions in land, and to represent the same by memorial, being responsible to the Treasury, and having a general intendency over the land revenue, subordinate only to that board.

The Auditors likewise have a distinct department. There are, in all, three Auditors of Land Revenue, one for the counties of Lincoln, Nottingham, Derby and Chester, one for all the other counties in England, and one for the principality of Wales. Their duty is to keep an account of the rents due to the crown, to give them in charge to the Receivers, and to audit their accounts. But besides the rents under the care of the Auditor, there are some rents, called Viscontiel Rents, which are in charge before the Clerk of the Pipe, and are collected and accounted for by the Sheriffs.

The Receivers are in number sixteen ;

Three under one Auditor, viz.

One for Lincoln and Nottingham,

One for Derby,

And One for Chester.

Eleven

Eleven under the other Auditor, viz.

- One for Essex, Hertford, Middlesex, London, Norfolk, and Huntingdon ;
- One for Lancaster, Westmoreland, Cumberland, York, Archdeaconry of Richmond, Durham, and Northumberland ;
- One for Kent, Surry, Suffex, Northampton, and Rutland ;
- One for Stafford, Hereford, Salop, and Worcester ;
- One for Bedford, Bucks, Suffolk, and Cambridge ;
- One for Oxford, Berks, and the honor and castle of Windsor ;
- One for Southampton, Wilts, and Gloucester ;
- One for Somerset, Dorset, Devon, and Cornwall ;
- One for Warwick and Leicester ;
- One for the Savoy hospital revenues ;
- And One for the bayliwick of St. James, in Middlesex.

Two in Wales, viz.

- One for North.
  - And another for South
- } Wales.

The monies collected by these Receivers are drawn out of their hands by warrants signed by the Lords of the

Treasury, and directed to the Auditors, requiring them to make forth debentures on the Receivers for the sums specified in such warrants. The mode of collecting and accounting for the rents, by the Receivers and Auditors, is regulated by an act of Edw. VI.<sup>1</sup> for the true answering of the King's Majesty's revenues.

All the officers principally concerned in the demisable part of the land revenue have been now mentioned. There are still others remaining, who belong to those estates of the crown, which in their present uncultivated situation are not very profitable.

The officers necessary in a forest,<sup>1</sup> are a steward, verderer, regarder, forrester, agistor, and woodward; besides which there may be others by local custom. Where there are any purlieus to a forest, there is a ranger<sup>2</sup> belonging to them; who is an officer *to*, or *of* the forest, but not *within* the forest, he having no charge of vert, but only of the venison that cometh out of the forest into his charge (which is the purlieu), which venison he is to safe conduct back again into the forest. There are two great judicial officers who preside, in their several districts, over all forests, the Justices in Eyre, north and south of Trent. The

<sup>1</sup> 7 Ed. 6. cap. 1.

<sup>1</sup> Manwood, fol. 6. B.

<sup>2</sup> Manwood, fol.



officers peculiar to a chace<sup>a</sup> are only a keeper and woodward. Besides all these, there is an officer, by patent, who has a peculiar charge of the woods in the royal forests—namely the Surveyor of the Woods.

These are the offices at present concerned in the management of the land revenue: there was lately another, called the office of Register of the King's Lands; which was an office under the Surveyor General, first created in the year 1751, and given to the then Deputy Surveyor General, and abolished, on his death, in the year 1780. The principal object of that appointment was to compile a register of grants and leases of the estates of the crown, with a view to preserve the reversions of such as had been granted away for long terms of years, under very small rents, *or without any rent*, from being lost. It was well known, and has been before observed, that during the reigns of Charles II. and King William, grants and leases were frequently made without due observance of the regular course of office<sup>b</sup>; and these being, consequently, unknown to the officers of the revenue, the estates were liable to be held over and concealed. To discover and bring to light grants of this nature was a matter of importance, and not to be effected without much labour, and

<sup>a</sup> Manwood, fol. 7.

<sup>b</sup> Appendix, No. VI.

diligent searching in the Chapel of the Rolls, and other offices and repositories of ancient records. This was the occasion of instituting the office of Register; and the appointment has proved of great advantage to the revenue, having been the means of recovering several valuable estates, to the amount of many hundred pounds a year, which in all probability would otherwise have been totally lost: a voluminous register was compiled, many grants and leases were discovered which were before unknown, and by a methodical and judicious arrangement of them the periods of expiration are kept in view, and the proper officers enabled to bring the estates into charge, as the leases severally fall in. This work being compleated, and the officer who performed it, who originally obtained the appointment, and was the only person that ever held it, being dead, in the year 1780, the then Surveyor General represented to the Treasury that the purposes of the appointment were answered, and recommended that it should be abolished; in conformity to which advice the office was suppressed, and the salary discontinued; and the books and papers which had been collected and compiled by the Register, were added to those belonging to the office of Surveyor General.

## C H A P. VI.

Of divers MEASURES, and PROJECTS, concerning the  
LAND REVENUE.

———Præter narrata petenti  
 Responde : quibus amissas reparare queam res  
 Artibus atque modis ?

HOR. SAT.

**I**T is with much more diffidence that I enter upon this, than any of the preceding chapters. They have consisted chiefly of matters of fact, which required nothing more than to be arranged in their proper order, and stated with accuracy. But the difficulty of the present undertaking is far greater, inasmuch as it becomes necessary here to discuss questions of expediency, and to deliver opinions on the good or bad consequences which may be expected from the adoption of various projects. The ultimate object of these observations can only be to discover, by what means this revenue can be turned to the greatest advantage, and benefit, of the King and his people. Of late years this consideration has not much employed the attention of the public ; at least not in proportion to it's importance, or in comparison with the great  
 care

care and industry, which was used in the beginning of the last century. Some of the devices and expedients in the reign of James the First have been mentioned in former chapters; such as his Deed of Annexation, and the Committees appointed under the Great Seal to consider of the means of repairing the King's estates. Besides these, many commissions of this kind passed, and many projects were offered, some of which are stated in the Appendix<sup>u</sup>. We have extant, in Sir Robert Cotton's Posthumous Works, a treatise of his <sup>w</sup> writing, entitled, "The manner  
 " and means how the Kings of England have from time  
 " to time supported and repaired their estates;" in which he mentions the selling of lands, and then <sup>\*</sup>speaks of  
 " passing in fee farm (except places of the King's resi-  
 " dence, parks, spacious wastes, or forests) all the lands  
 " of the crown which remain either in the annexation,  
 " custody lands, or Queen's jointure, and exceed not  
 " yearly £.32,000. These, though largely stated out in  
 " several natures, some for lives, some for years, will one  
 " with another be advanced to a treble rent; which amount-  
 " ing to £.96,000, leave an annual improvement of  
 " £.64,000; and if the offer be not made restrictive for  
 " the new tenant, there is no doubt but his Majesty will

<sup>u</sup> No. III.      <sup>w</sup> Vid. the Manusc. in the British Museum.

<sup>\*</sup> Sir Robert Cotton's Post. Works, 179, 182.

“ find ready and hearty undertakers, amongst the gentry  
 “ and nobility too, who have any place of residence near  
 “ any of his Majesty’s manors; and the King’s security  
 “ the better, since their abilities will settle the fee farm  
 “ rent upon more land than the purchase.” Besides this  
 measure of passing in fee farm, he mentions a project for  
 enfranchising copyholders, which he disapproves; and  
 other particular matters respecting the land revenue, which  
 at that time was much more considerable than at present.  
 By consulting the opinions and plans suggested in the se-  
 veral projects in the Appendix<sup>y</sup>, the prevailing notions re-  
 lative to the best mode of improving and disposing of the  
 crown lands, in the beginning of the last century, may be  
 collected. From that time till the beginning of this cen-  
 tury, nothing of consequence was done for the augmen-  
 tation of the land revenue. The civil list act of the 1st  
 of Queen Anne (as hath been before observed) saved the  
 remnant which was then left of the crown lands; and the  
 care, which has been taken of them since that time, has  
 improved that revenue, and rendered it an increasing fund.  
 His present Majesty’s voluntary resignation of his lands,  
 together with other revenues during his life, has cer-  
 tainly contributed to secure and establish that fund, by

<sup>y</sup> Norden’s project, Manwood’s project, &c. &c.

putting it out of the power of the crown to comply with the requests of those who might importunately solicit grants or leases, as matter of favour, without any consideration, or for merely nominal rents. This revenue, being directed to be carried to and made part of the general or aggregate fund, must be fairly and faithfully managed ; care must be taken, that all just issues and profits are brought into charge, and not suffered to remain in the hands of the tenants, undemanded, nor granted away through favour and affection, or on any account, excepting in cases, where for the good of the revenue (the controul, management, and direction of which is left to be exercised by the crown) it may be found expedient to remit, mitigate, or compound fines, or rents of lands. In this respect the surrender of the crown lands to the public has been of great utility. But it is impossible not to observe in this place, how much more was resigned in this part of the bargain, on his Majesty's accession, than was foreseen. I must suppose, that when a computation was made of the amount of the hereditary revenues to be resigned, each branch, small as well as great, was calculated and taken at a certain average value ; the land revenue, as one of the small branches, was probably estimated as producing a certain sum annually, so much in rents, and so much in fines. If such was the ground of the proceeding, the land revenue was

very



very much under-rated ; for in that way of considering it, no allowance was made for its improvable nature, though it was sure to continue increasing, by the mere lapse of time alone, exclusive of any additions which might happen from uncertain and precarious causes. For many rents were only nominal, being little more than acknowledgements, reserved upon long leases, granted as matters of favour antecedent to the civil list act of Queen Anne. Many of these leases have fallen in since the King's accession, and others will soon expire ; and in these cases nominal rents are frequently converted into considerable sums ; and hundreds of pounds have been sometimes reserved in lieu of mere acknowledgements. Besides that in this mode of estimating the land revenue by its annual production, in rents and fines, no credit could be taken for the adventitious increase which it might receive by escheats and forfeitures, nor for the augmentation which must accrue, whenever allotments are made to the crown, on the enclosure of forests, chaces, and wastes. This last consideration is of great importance ; and if in this reign the forests should be enclosed, and a share set out in lieu of the various rights and royalties of the crown, equal to the proportion which has been allotted in some late instances ; and if this share should be considered as given up by the crown to the public, under the act of parliament which gives to the aggregate

fund the revenue arising from rents of lands and fines for leases of the same, it would be found to be a concession far more considerable than was understood or intended to be made at the time of his Majesty's accession.

To evince the truth of this proposition, it is necessary to shew the magnitude and importance of that concern; in the discussion of which I must enter into the consideration of the grand project so often alluded to, the enclosure and improvement of the forests and wastes.

This subject, if it were treated of in detail, might require many volumes; for, in that point of view, a perfect account would be looked for in every particular. Not only a local description of each forest would be expected, but it would be necessary to state, with precision, the extent, to fix the boundaries, to settle the jurisdictions, to ascertain the respective rights of the crown, and of the subject, and to particularize, minutely, the contents, in quantity and quality, and the value and present condition of each forest, chace, or waste. In the same manner, if I were to engage in all the controverted questions of political œconomy, which relate to and are connected with this subject, no less than a separate volume, at least, would be requisite. But as I think that the utility of the project is  
apparent,

apparent, and the evidence of its expediency is obvious, I shall be satisfied with only stating the outline of the measure proposed, and making some remarks on the principal doubts and objections which have occurred.

The magnitude of the object sufficiently appears from the list of forests and chaces, in the account already given of the estates of the crown in possession. In many of the forests the soil is rich by nature; and in others it is capable of being rendered fruitful, by enclosure, without any other great expence. Some of the largest forests, from the vicinity to the metropolis, might be more easily cultivated, and are more valuable on the same account. Whatever share may be allotted to the crown for its rights of soil and royalties, it will probably amount to a great estate in land. In the reigns of James the Ist, and Charles the Ist, very great proportions were given to the crown. So lately as in the year 1770, on the enclosure of Knaresbrough forest, a tenth was the share allotted; and in the case of Enfield chace, in 1777, about two-fifths were given to the King. Davenant<sup>z</sup>, in his treatise on the land of England and its produce, quotes Mr. King's calculation of all the lands in England and Wales, which he puts at 39 millions of acres, divided and arranged according to their several con-

<sup>z</sup> Davenant, vol. 2, page 216.

ditions,

ditions, whether arable, pasture, or what other kind soever. In this scheme the forests, parks, and commons in England and Wales are set at three millions of acres. Without attempting to ascertain in how many of these three millions of acres the soil belongs to the crown, I may venture to say the proportion is so great, as that a tenth of it would be by no means an inconsiderable acquisition to the royal revenue. The general project of the enclosure of the forests, is so evidently beneficial<sup>2</sup>, both as it respects the revenue of the crown, and the wealth of the nation, that it is needless to prove the affirmative of that proposition. I shall therefore be satisfied with obviating some objections which have been suggested, without much consideration, against this measure.

The objections which are so frequently urged against enclosures in general, do not apply to the enclosure of forests and wastes. Many strong arguments have been used against enclosing common field lands, and small commons; but none of these have any force in the case of great tracts of land or of mere wastes, such as boggy moors, cold heaths, marshy fens, and barren mountains. Whenever these are capable of improvement, by being divided and fenced, drained and manured, it is so much clear gain to the pro-

<sup>2</sup> Vide Appendix, No. III.

prietors, and the public. No doubt can be raised on the utility of a measure, which occasions the production of an additional quantity of provisions. Riches and population must encrease, together with the means of sustenance. Families will multiply, where there is plenty of food; and where more is raised than is sufficient for domestic consumption, foreign markets will be found for the encouragement of exportation. The cultivation<sup>a</sup> of this country is very inferior to what it might be, though superior to that of most other nations. Many circumstances concur to render this country peculiarly capable of improvement; the variety of its soil, the industrious and enterprising disposition of its inhabitants, the civil liberty which it enjoys, its commerce, its extent of coast, its inland convenience for carriage both by roads, navigable rivers and canals: all conspire to facilitate the progress of agriculture. What then are the obstacles which impede the course of this great salutary work, the cultivation of our forests and wastes?

The first objection arises from the want of an adequate capital, to defray the expence of such an undertaking. This is an objection to the practicability of the measure, not merely to its expediency, or utility. But when it is considered, that on an enclosure of these lands they must be di-

<sup>a</sup> Nature and Causes of the Wealth of Nations, B. 3. p. 507.

vided into an infinite number of shares, in compensation of the rights of common in all the parishes interested in the premises, the expence will not appear so discouraging, and so insurmountable an obstacle to the proceeding. The number of persons, who will be interested to contribute, according to their shares, will facilitate the production of money, which would not be procured for such a purpose from a few rich men; though much assistance may be reasonably expected from the great proprietors of land, who, notwithstanding the pressure of the times, still continue to advance money for the promotion of local improvements, whereby their estates may be benefited, such as the making of turnpike roads, and navigable canals. There can be no doubt, that so soon as the enclosure of any forest shall be agreed upon, and the terms adjusted, both spirit and wealth enough will be found in the country to cultivate the soil. What inducement can be stronger to a farmer to lay out a part of his capital, than the prospect of acquiring a solid and permanent property in land, in lieu of an undefined and precarious right of common? What countryman, possessed of a few hundred pounds, would prefer the trouble and risk of putting out his money to interest, or of getting some one to purchase for him in the stocks, rather than employ his little capital in improving or buying a parcel of ground, contiguous to his habitation, which he may expect to have at a moderate



moderate price, and which he will know how to estimate, from his knowledge of the country and his occupation in life? It is true, that, previous to the cultivation of the land, a capital must be provided for several expences preparatory to the undertaking. An act of Parliament must be obtained, commissioners appointed, and surveys made. These charges might be defrayed by the sale of timber, and if that should be insufficient, by the sale of a part of the King's allotment; the large allotments which in late instances have been made to the crown were given as well in consideration of the payment of these charges as of the surrender of various rights and royalties.

Another objection, often urged, is, that the bringing of so much land to market would lower the price of that species of property. Supposing this to be true, why are we to consider such an effect as a public evil? That it might be prejudicial to individuals who at this time want to sell their lands, may be true to a certain degree. But the nation is no loser by the sinking of the money price of land, when the fall in the price of the commodity proceeds only from there being an extraordinary plenty of it. It is true, that the sinking of the value of lands, if it proceeded from their being exhausted, from a want of people, or stock, or industry to cultivate them, or from an inability to dispose of their pro-

duce, would indeed be a public calamity. But if land were to be purchased cheaper, only in consequence of a greater quantity being brought to market, I am at a loss to see how this could be a public grievance.

The only remaining topick of objection, worthy notice, is the prevailing supposition, that this measure would be unpopular. If this opinion were well founded, I should think it a very serious objection; for however unreasonable the people might be in their apprehensions of any grievance resulting from this project, still if great numbers were averse from the proceeding, and discontents appeared to prevail generally, amongst those who are concerned, such a circumstance might render the undertaking difficult, if not impracticable, in the execution; and the object, though very desirable, might not be worth attaining at the expence of so much dissatisfaction. But if, in general, the gentry, clergy, yeomanry, tenantry, and honest cottagers, being made sensible of the great advantages, which would accrue to them, as well as to the public, should approve the scheme, the benefit to be expected from it is too considerable to be relinquished from the apprehension of any sudden temporary riots, which may be secretly excited by those who are conscious of having made, as well as those who may design to make, unjust encroachments.

It

It must be confessed, that this measure may probably meet with much discountenance from some great Lords, who may consult the gratification of their own pleasures, fancy, or pride, more than the public benefit. The amusements of the chace, which the forests afford, and the beautiful scenes with which they adorn the country, cannot be compensated by an allotment of land to those whose great estates need no addition : the patronage also which many great men possess in the forests, and the power of conferring favours, which they derive from offices, increases their influence in the country ; and provincial politics, particularly in respect to elections, may interfere, and induce those, whose interest is at stake, to use every means of frustrating any attempt to inclose the forests. Such persons might easily foment the natural jealousy of the people. All novelties in the modification of property, and the extinction of ancient rights, create suspicion. The prejudices of the people, their passions, and propensity to resist authority, might soon be worked upon, and their minds inflamed, to the utter exclusion of cool reasoning and deliberation ; whilst a desperate band of trespassers and vagabonds, who live by depredation, surround the borders, and are ever at hand ready to break out into open insurrection.

The engines, which may be employed to create an unpo-

pularity in this measure, (which, if properly explained, would be universally approved,) are so various and powerful, that great caution must be used to counteract their effects. Sir Robert Cotton, speaking of this plan, says<sup>b</sup>, “ In the  
 “ carriage of this business there must be much caution, to  
 “ prevent commotion; for in them there are many that have  
 “ right of common, *sans nombre*, and the resolution in  
 “ agreement with them must be suddain, and confident, for  
 “ multitudes are jealous and inconstant; and the instruments  
 “ to effect this must be neighbours interested and popular,  
 “ not strangers; and the first demise to the inhabitants, at  
 “ easie values.” This is very good advice; and further, to prevent disgust, it may be most prudent not to pass a law universally comprehensive of all forests and chaces, at once; but to begin by acts for one or more forests, the enclosure of which is most obviously beneficial; or at least, if any general law is passed, to make it open to exceptions, where, from particular circumstances, the general reasoning does not apply; and this general law should not be peremptory, to direct the enclosure and division, but rather enabling than compulsive, holding out encouragements, laying down some general rules, giving powers to facilitate the plan, and drawing an outline to pave the way for the particular acts respect-

<sup>b</sup> Sir Robert Cotton's Posth. 183.

ing the several forests. If some proceeding of this sort is devised, and nothing violent or hasty is attempted; if the operation is carried on gradually, and the pulse of the country first felt, no sudden commotions are to be apprehended. When the consents of the principal land-holders are obtained, the foundation of the plan is laid on a solid basis: when the work is once begun, it is half finished. The great difficulty is, how to set about an undertaking of this sort, which seems arduous, because it is not frequent. For, however obviously beneficial the project may be, few people are fond of stepping forward to assume the conduct of a business, which in the outset of it may subject them to much ill will, although they are sure ultimately to gain the thanks of all the most respectable people in the country.

These difficulties have been the cause which has occasioned the forests to remain so long in their uncultivated state, to the great disgrace of the kingdom. The impediments to the acquisition of a property in the land, and not the want of will or ability to cultivate it, have prevented this extension of agriculture. Let allotments once be made, there is no fear that the land will be improved, and that the enclosure will be popular. The people will see their true interests; they will find themselves in possession of a real separate property, which they may enjoy and use without any controul.

or

or limitation, much superior in value to their former rights of common.

The encroachments in the forests at all times furnished a very cogent argument for their inclosure; but since the passing of the *nullum tempus* act<sup>b</sup> it is become a much more necessary measure in respect to the crown; for the title of the subject being now secured against the crown, by the same limitation of time as would bar a writ of right in the case of any other adverse possession, it behoves the crown to take every precaution against illegal intrusions and encroachments; and none can be more effectual, than the inclosure and division of the forests. No other remedy will be sufficient to prevent the gradual consumption of the King's soil in wastes and forests, by the usurpations of the borderers. Great additional inconvenience of this kind is to be apprehended, from the operation of the *nullum tempus* act, on lands, which have been granted to persons in forests, to be held in virtue of offices. Many keeperships have not only the occupation of lodges, but the custody of lands belonging to them, with the herbage, pannage, windfalls, and various rights, which, continuing in the same families for generations, are at length claimed as private property;

<sup>b</sup> 9 Geo. III. cap 16.



and titles will be acquired by the limitations of this act. These reasons for the enclosure of forests, drawn from the danger of future encroachments, will not be disputed. But, in respect to encroachments already made, great delicacy and caution must be used, to guard against alarms, which are easily conceived and quickly propagated amongst landholders, whenever it is supposed that any design of questioning their titles is in agitation. Even the committee for the repair of the King's estates, in 1612, in their advice on the matter of encroachments, say, " Considering the case is  
 " of a tender nature, we dare not advise for the present any  
 " proceeding to raise benefit thereby." And yet in those days the rights of the crown were exacted with greater rigour, and its prerogatives carried higher, and the people much less accustomed to complain or resist, than in the present times. Too much prudence therefore cannot be employed, in avoiding all occasions of exciting dissatisfaction on the subject of private property; which, as it is in itself sacred, so are the jealousies which concern it respectable. In this instance I must still go further, and add, that for the general quiet of the subject, and in order to prevent opposition to a salutary reform, even the illegal encroachments already made may be worthy of protection. To ensure the popularity of the measure, great liberality ought to be observed, in compensating, not only the rights, but in many cases

cases the usurped privileges, of individuals; and, above all things, let the crown and the gentry concur in favouring the claims and furthering the wishes of the poorer sort, always leaning to their side in doubtful points, and in the distribution of the shares, filling up their measure with an overflowing hand. By such means the undertaking will be supported by the influence of the great, and the blessings of the poor; poverty will be changed to affluence; the cottager will become a little farmer; the wilderness and desert will be converted into rich pastures, and fertile fields, thereby furnishing provision for the country, and present employment for the industrious poor; the borders and confines of the forest will cease to be a nursery for the county gaols; the trespasser will no longer prey upon the vert, nor the vagabond and outlaw on the venison; nay the very soil itself will not then be gradually lost and stolen, by purprestures and affarts. Thus the forests which were formerly the haunts of robbers, and the scene of violence and rapine, may be converted into the receptacle and asylum of honest industry.

In offering this plan, I particularly desire not to be understood to propose the enclosure of any forest or forests, which his Majesty uses, or may think proper to use for his royal diversion.

At the same time, let the Legislature carefully attend to correct and expunge whatever remnants may be found of ancient tyranny in the forest code. Let them wipe away every vestige of that cruel barbarism, which subjected mankind to torture, in order to secure the tranquillity and repose of wild beasts. If the revision of such a code shall be found difficult, it may be easy to abolish it entirely, and erase from the statutes of a free country, that slavish and sanguinary system of laws which is already grown into disuse and oblivion.

Having obviated the principal objections, I trust that the advantages of the project are self-evident. It would be useless for me to expatiate on the profits of agriculture. Mr. A. Smith describes them well in saying, that---“ No equal  
 “ capital puts into motion a greater quantity of productive  
 “ labour, than that of the farmer; not only his servants,  
 “ but his cattle, are productive labourers. In agriculture  
 “ also Nature labours along with man; and no equal quan-  
 “ tity of productive labour employed in manufacture can  
 “ ever occasion so great a reproduction. In them Nature  
 “ does nothing; man does all. Of all the ways in which  
 “ a capital can be employed, that of agriculture is the most  
 “ advantageous to society.”

The only remaining subject for consideration is the manner of disposing of the lands, which by this project would be brought into cultivation. First, whether any and what particular regulations should be made, in respect to the mode of cultivation. Each species of husbandry has its advocates; some are for granting encouragement to one, and some to another kind of agriculture. But perhaps as a general rule, with very few exceptions, it is much wiser and more prudent to leave the cultivation of the land to the will and judgment of the proprietor. They, who are most interested, will be best able to decide on the qualities of the soil, and the means of disposing of its produce, which will be the more easy, the less it is complicated by laws of encouragement or restraint. There is no end to the controversies concerning agriculture. Every proposition is liable to dispute. It would astonish those who are unapprized of the circumstance, to hear, that in the reign of Elizabeth it was a question, whether tillage deserved encouragement; and that no less a person than Sir Walter Raleigh maintained the negative, and supported his opinion, in the House of Commons, by reasons which appear strange to us in these days<sup>c</sup>. He thought, “ That grain could not be rendered a staple commodity in this country, for that all nations abounded with

<sup>c</sup> D'Ewes's Journal, 674.

“ corn ;

“ corn; that France had offered the Queen to serve Ireland  
 “ with corn for sixteen shillings a quarter; that the Low  
 “ Countries, though they never sowed corn, yet, by their  
 “ industry, had such plenty, that they could serve other  
 “ countries; that the Spaniard, who often wanted corn,  
 “ would not be beholding to the Englishman for it, nor to  
 “ the Low Countryman, nor to France; but would sooner  
 “ fetch it from the Barbarian.” The contrary opinion was  
 wisely adopted, and ably supported by Sir Robert Cecil, and  
 Sir Francis Bacon. The Secretary Cecil observed, that in  
 every Commonwealth, except Sir Thomas More’s Utopia,  
 the ploughman is the first and chief object of attention and  
 encouragement; that the strength of the nation consisted in  
 that order of men; that the great body of our armies was  
 composed of them; that from his experience he knew, that  
 when warrants went from the Council for levying of men,  
 and the certificates were returned, the greater part were  
 ploughmen. He urged the utility of exportation, and  
 shewed that depopulation would follow the discouragement  
 of tillage; remarking, that if it was worth while to make a  
 law in Edward the Ist’s time, for the maintenance of the  
 fry of fish, and in Henry the VIIth’s time, for the preservation  
 of the eggs of wild fowl, it was at least of as much conse-  
 quence to attend to the support of the human species. In

Sir Simonds D'Ewes's Journal<sup>d</sup>, there is a speech of Sir Francis Bacon, to the same effect, and Bacon in his History of Henry VII. <sup>e</sup> goes fully into the subject. It was in that Prince's reign, that the nobility and gentry, who were then such great land-owners, began to conceive that their estates might be rendered much more valuable to them by being employed in grazing. Bacon says, " Inclosures at that time  
 " began to be more frequent, whereby arable lands, which  
 " could not be manured without people and families, were  
 " turned into pasture, which was easily rid by a few herdsmen ; and tenancies for years, lives, and at will, whereupon much of the yeomanry lived, were turned into demesnes. This bred a decay of people, and by consequence a decay of towns, churches, tithes, and the like.  
 " The King likewise knew full well, and in no wise forgot, that there ensued withall upon this a decay and diminution of subsidies, and taxes ; for the more gentlemen,  
 " ever the lower book of subsidies." Notwithstanding the wise measures taken by the King and Parliament to remedy this grievance, this <sup>f</sup> notion spread, and the fashion of converting arable into pasture prevailed during the two succeeding reigns ; 'till at length the common people, exasperated

<sup>d</sup> D'Ewes's Journ. 551.

<sup>e</sup> Bacon's Works, vol. 3, pag. 39.

<sup>f</sup> Campbell's Political Survey, vol. 2, pag. 65.



by indigence and oppression, broke out into rebellion in the reign of Edward VI. and demolished the enclosures throughout the greater part of the kingdom. In condemning the reasons given by Sir Walter Raleigh, I desire not to be understood as maintaining, that the cultivation of grain is more profitable than that of grass; but only that a proper proportion of arable land should be preserved; for, as a general proposition, I agree with Davenant<sup>g</sup>, that it is more the national interest of England to employ its land to the breeding and feeding of cattle, than to the produce of corn; and accordingly we find in the computation which he gives, from Mr. King, that the acres in England and Wales of pasture and meadow are 12,000,000, while those of arable land do not amount to more than 9,000,000. But in Queen Elizabeth's time the proportion of arable land was infinitely smaller, and the graziers were said to monopolize all the land. Yet the question then debated was, whether a statute for the encouragement of tillage should be repealed, so that the controversy seems to have been, whether the cultivation of grain deserved any protection from the Legislature.

In these days the Legislature is not likely to prescribe to

<sup>g</sup> Davenant's Works, oct. vol. 2, pa. 228.

the landholder the mode of cultivating his soil. A different method of promoting any particular species of husbandry is now used, by encouragements given; such as bounties, and drawbacks. One species of cultivation, however, on the present occasion, may with great propriety be particularly required. Lest the enclosure of the forests should deprive the royal navy of one principal resource for the supply of timber, it might be provided that a certain portion of the territory enclosed should be appropriated to the growth of timber, and destined to the use of the navy.

In regard to the King's allotments, there may be various opinions about the disposal of them. Some may think, that lands in these times are at so low a price, that it would be better not to sell them immediately; and the rather, because there is great reason to suppose, that they will bear a better price when their improvable quality shall appear by the cultivation of the contiguous allotments. Others think, that unimproved lands would sell well. Mr. A. Smith<sup>h</sup> says, that where cultivated lands sell at 30, uncultivated lands may be expected to sell at 40, 50, or 60 years purchase. Many are for getting whatever can be

<sup>h</sup> Wealth of Nations, vol. 2, 421.

raised by the sale, esteeming the high price of money as a balance to the low price of land. Many are for selling so much only, as is necessary to raise a fund for the improvement and cultivation of the remainder; and others may be for raising a considerable sum by the granting of long leases, an estate for 99 years being within half a year's purchase as valuable as the fee simple. And this latter mode is more eligible to the crown as a permanent body than an entire alienation of the perpetuity, as the lands would return, probably much improved, again to be granted out at a more considerable profit. The distant prospect of an interest to take place at the end of a century is not very alluring to many minds. But they, who know the benefits which have of late years accrued, and are still accruing, to the land revenue, by the falling in of estates after the expiration of terms of 99 years, will not despise such reversionary interests. Many therefore for these reasons, and from a disinclination to strip the crown of such ancient possessions, or to support any measure which tends at all to dissolve any bond of connection between the King and his people, may not wish to see the territorial rights of the crown alienated for ever.

The preceding chapters have in some degree explained the nature, state, and management of the land revenue.

In

In this we have hitherto treated of the projects concerning the forests. Another topick now claims our more immediate attention, as likely soon to become the subject of parliamentary deliberation : I mean the project for the sale of the demifable lands, fee farm and other rents, manors, honours, &c. Different opinions on this subject may be fairly entertained ; and on one point in particular, contrary conclusions may be deduced from the same premises, by different persons, according to their political principles. It is obvious, that the sale of the land revenue will occasion a diminution of offices under the crown : this will therefore be an argument used for or against the proposition, as opinions shall prevail for supporting, or diminishing the influence of the crown. Without entering into that discussion, it is sufficient to examine the question of finance, and to state the principal reasons on both sides.

They who are against alienating this revenue will say, that it is an encreasing estate : and the truth is, that within these last thirteen years it has been raised in rents alone (exclusive of great additional sums received in fines, above the fines on preceding renewals, and of estates brought into charge which were held over) upwards of £.3200 per ann. without any oppression or loss of tenants. Besides  
that

that there are many rents, which are merely nominal, and which, when the terms shall expire, will be converted into considerable rents. The encreasing nature of the estate furnishes an argument against the sale, at least for the present; until by the falling in of leases an opportunity shall be found for raising the rents to their proper standard. This growing value of the demised lands does not arise from any improvements in the cultivation of them, but merely from their having been underlet; so that the arguments for the sale of forests do not apply to this case. Some articles in the land revenue are of such a kind as to render a sale of them impracticable; as escheats, forfeitures, royal mines, *maritima incrementa*. How could such contingencies be estimated and sold? The same may be said of rents in arrear. What purchasers will be found for the rights of action in the crown? Who will chuse to buy a law suit? Whereas while they belong to the crown, a part of them may be recovered at law, and part by some reasonable composition with the defaulters. The present application of the profits of this revenue is also an obstacle to the scheme. The annual charges upon it are such, as must be defrayed by some means. If the lands are sold, some other fund must be found to answer them. There are many perpetual pensions, allowances to hospitals, schools, and charities, payments to Commissioners of taxes and their inci-

dents, salaries of Welch Judges, Sheriffs, Keepers of Prisons and Castles, Rangers of Forests and Parks, &c. To all these necessary purposes the produce of the land revenue is in part applied; and if that is alienated, some other provision must be made for them, or else they would become a charge on the civil list. But above all things in this scheme it must be considered, that as there are now subsisting leases of the whole, it is in fact nothing else but the sale of a reversion, which is the most unprofitable of all things to sell. Persons used to calculations of that sort know, and any one from tables may easily see, for how small a sum the reversion of an estate will sell after any considerable term. But in the present instance, if the reversionary interests were to be sold, the public would only be entitled to so much as the revenue is worth for the King's life in reversion of the subsisting leases; for the hereditary revenues were only given up to the public during his Majesty's life. The leases are granted for 50 or 31 years; and in most of them a great proportion of the term is unexpired: so that purchasers must be found to buy a reversion for the King's life, to commence at the end of each of the subsisting leases, many of which are of greater value than a single life.

Having stated some of the arguments against the sale, it  
may



may be proper to consider, what may be said in favour of the project. It must be admitted, that the landed estate of the crown, reduced as we now find it, is very unworthy to be possessed by the Sovereign of Great Britain; and that it is not of magnitude enough to occupy a public department, but fitter for the care of a few industrious individuals, than of the great officers of the Treasury. The circumstance of the crown lands being scattered so widely over the whole kingdom is an additional reason for parting with them, as it would be, if they were the property of a private owner; for all dispersed possessions are chargeable, on account of the consequent multiplication of officers, whose personal attendance is necessary for the management and collection of the revenues. Hence we find the number of Stewards and Receivers before enumerated; and it is to be observed, that this part of the numerous establishment of officers cannot be reduced into a small compass, whilst the crown retains possessions so dispersed. Whatever æconomical reforms might take place in regard to the principal officers of superintendence and controul, still the number of persons employed in collecting the revenue must remain, while estates are kept in charge so distant from each other. This dispersion of the property of the crown is in some degree the occasion of a confusion, which prevails in the method of accounting for part, and tends to prove the perplexed condition of this re-

venue. The Sheriffs of the several counties receive the vicontiel rents, which are reserved out of estates formerly belonging to the crown. This money is liquidated in their account at the expiration of their office, and therefore never appears in the Auditors accounts as a part of the land revenue. Neither do the Auditors take account of the fines for renewals of leases, from whence so great a part of the revenue is derived. It is not however the confusion in the accounts so much as the expence of management, which calls for a sale of the whole. The variety of offices concerned in this small revenue is owing to its form magnitude; and in antient times there may have been much wisdom in instituting a number of offices to check and controul each other; but the continuation of the same great offices, to superintend the remnant of a decayed revenue, cannot be justified as a measure of finance. A more simple mode of management may be adopted: the establishment may be lowered, and compressed into a smaller compass: by these means the deductions may be lessened, and the receipts may perhaps be encreased. But no regulations and provisions could give such effectual security against all future depredations of that revenue, as the entire sale and conversion of it into a capital sum in the public funds. By these means the whole value of the lands in money will be carried to the public account, which will be a saving of all  
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the charges of management amounting to about £. 4000 per ann. in salaries and fees from the public, besides a considerable sum in fees from individuals; which, being deducted from the fines, is in fact a defalcation of the revenue. In regard to the objections raised to this project, it may be answered, that if the land revenue is an encreasing estate, it will bear a higher price. If it is said, that lands would now sell at a low rate, this may be answered by shewing that money is at a high value. Lands sell at the current rate, and nothing can sell for more. As to the impracticability of estimating certain contingent profits, as escheats, forfeitures, mines, and *maritima incrementa*, they need not be sold until they happen and accrue. In respect to the annual charges, which are made payable out of the land revenue, and which must be defrayed by some means, they may be continued to be payable out of the fund which will arise from the sale; which fund also may be secured, so that on the demise of the crown it may revert to the King's successor; or be granted out again by him, on a renewal of the old, or the creation of a fresh bargain with the public.--- Thus much and more might be urged for a sale of the crown lands.

There is yet another project well worthy of consideration, which is, neither to make a general sale at once of the whole,

whole, nor to retain the land revenue in its present state; but to adopt, for the present, an æconomical reform in the management, by diminishing the number of officers, and lowering the fees and salaries of others, having regard always to just compensations, in which it becomes the Parliament to be liberal, and not to suffer any individuals, whether their offices be of a freehold nature or not, to lose by a scheme which is productive of benefit to the public. During the lives, therefore, of these officers, no saving would be made, by the reduction of the establishment, excepting where it might be found, that fees had existed, which did not deserve compensation. But as the various officers should fall off, by the course of Nature, the expence of management would decrease. Commissioners might be appointed, and vested with proper powers by Parliament, to sell the several estates now demised, each respectively so soon as the lease of it shall expire. By this method, all the disadvantage of selling a reversion would be avoided, which is a very important consideration, especially to the crown, or the public, and a very sufficient inducement to continue this reduced establishment until the leases shall expire. The benefit which would arise from the adoption of this project, might be seen, if an estimate were made of the value of the estates which would fall in from year to year, until all the subsisting leases should expire, and which would,

upon

upon a moderate computation, amount at least to £.100,000. per annum.

The first consideration, which occurs on this proposal, is the loss of the income arising from the fines on renewals, amounting to £.7,700 per annum, on an average of ten years, from 1772 to 1782, and to £.7,400, on an average of twenty-two years to 1782. This loss must be sustained for a time ; but it would soon be repaired. It must be observed, that the net profits of the land revenue would not be diminished by this project to the amount of £.7,400, even for the intermediate time, until leases should expire, sufficient to replace that sum ; because the charges of management would be lessened by the proposed reduction of the establishment, and on the falling in of pensions, and on the decrease of compensated officers, and otherwise. It cannot be objected to this plan, that the charges made payable out of this revenue would be left unprovided for ; as the rents alone are more than adequate to the payment of all such charges, and also the expences of management, on the present extensive system. So that the measure is reduced to a simple question of finance, Whether it is worth while to forego the receipt of £.7,400 per annum, in order to receive the progressive gains arising from the sale of estates on the expiration of subsisting leases ? This plan need be no obstacle to the im-

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mediate sale of fee farm rents, or of manors not leased, or any part of the revenue from which fines are not expectant. The whole of this proposition, relating to the sale of demised lands, as the leases fall in, is subject to the consideration before suggested, respecting the allotments on the enclosure of forests ; namely, whether granting fresh leases for ninety-nine years, is not, to a permanent body, preferable to a sale ? such grants being nearly equal to the value of the fee simple.



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# A P P E N D I X.

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No. I..

*MANWOOD's Project for improving the Land Revenue, by inclosing Wafts. For Sir Julius Cæsar. 27th April, 1609.*

WHEREAS the King's most excellent Majesty hath within this his realm of England great abundance of vacant and waste ground, whereof now his Majesty hath no profit at all, nor his subjects very little benefit or good thereof, because the same lieth waste and common unto all men; as in his forests, parks, and chaces, and in divers other places of waste ground within this realm, which by reason that the same is not inclosed nor inhabited with honest and industrious people, that may convert the same into tillage, and pasture, and other such profitable uses for the good of the Common Wealth, his Majesty receiveth no profit thereof.

His Majesty may therefore grant unto 5000 Yeoman, every one of them 100 acres of those lands, for some term of years; in consideration of which grants and leases every one of those Yeoman shall take and inclose the same; and to build upon every hundred acres of land a good sufficient farm house to dwell in, with barns, and other necessary buildings for the same; and every such Yeoman to yield and pay yearly unto

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his Majesty, his heirs and successors, for the same £.20 per ann. which will augment and increase his Majesty's revenues for ever a hundred thousand pounds yearly.

By such leases and grants his Majesty's forests, chaces, parks, nor game shall receive no hurt nor prejudice, but be rather increased and better cherished, the soil being made more fruitful; and every such grantee or lessee may and will be bound by his lease and covenant to be a keeper and preserver of the deer, so long as they are in their ground, and also to preserve the woods, and game of hares, pheasants, and partridges; and yet this shall not hinder any officer of the forest, nor his Majesty's pastime in hunting: and in all such inclosed grounds and farms there may be meet and convenient gates and places of passage, for his Majesty, and his train, when they shall hunt there.

King William the Conqueror was chronicled for depopulating 36 parishes, and pulling down of so many churches in New Forest, and turning the soil into forest; but the King's Majesty shall be thrice renowned for ever, in setting up so many good farms, and dwelling houses, for men to dwell in, and live upon, whereby ten times 5000 people shall be maintained to live. By this means his Majesty shall be better enabled in force and strength, by raising of so many able subjects, his subsidy so much increased, the Common Wealth greatly enriched, and bettered, by providing of so many dwelling houses for so many desolate people, which now do want places of habitation. This will also bring down the price of beef, mutton, butter, cheese, corn and grain, and all manner of victuals, which will be a means to set a number of idle people on work, whereby to avoid idleness and drunkenness, and all other fowl vices which do reign chiefly by idleness.

## No. II.

*NORDEN's Project for the improving some of his Majesty's Forests, Parks, Chaces and Wastes, presented to Sir Julius Cæsar.*

**I**T is a matter not newly entered into the thoughts of many to conceive the inconveniencys, that grow by the continuance and toleration of so many parks, chaces, forests, and wafts, in a kingdom so long and so well experienced in the commoditys growing by the manurance of land; and yet it may seem to some a distastfull novelty to have that reformed, which time and continuance hath made (as it were) the habit of sundry ignorant opinions, who can hardly be brought to think any thing so profitable and necessary, as what foregoing fathers began and suffered, and by tradition continued many succeeding ages.

But were the consideration of the necessity of reforming this one inconvenience in this kingdom cast in a right mold, it would appear the lively image of *commune bonum*. On the contrary, if it continue and increase as it hath and doth, it will grow to so ugly a monster as of necessity will breed and bring forth more and more idleness, beggary, atheism, and consequently all disobedience to God and the King.

This may be observed by looking into, and duly considering, the states of waft, spacious, and (as they may be called) desert forests, chaces, and wafts, wherein infinite poor yet most idle inhabitants have thrust themselves, living covertly, without law or religion, *rudes et refractarii* by nature, among whom are nourished and bred infinite idle frye, that coming ripe grow vagabonds, and infect the Common Wealth with most dangerous leprofies.

If then there were but this one evil reformed, without any consequent commodity else, it were a most worthy work; but if there shall follow good to the whole Common Weale, profit to his Majesty's purse, and glory to God, what a disparagement were it to the credit of so worthy a kingdom to omit so general a benefit, and to continue so dangerous a disease (easily cured). The good of the Common Wealth shall undoubtedly grow abundantly by reducing the former unprofitable inhabitants

to a civil and religious course of life ; and to bring this to pass they must either be removed from their obscure dwellings, and be replanted where they may first learn, and so live, according to the laws, or else to bring the places wherein they live to civility, which cannot be done as they now stand. Therefore the best and most likely is to make a more full plantation in those parts, and to turn some of those unprofitable places into farms and dwellings, for men of more worth ; the rather, for that it is obvious that this kingdom is so encreased in people (the strength of a king) as many good people are forced, with their families, to seek elsewhere, and can hardly find place to inhabit

And objection will be made against this wished course, by dwellers within, and borderers near the said forests, &c. that they by this means shall loose their common pasture.

For answer to this it may be made good, that whoso can prove that justly, and without oppression of his neighbours, he maketh 20 shillings per ann. of his common, he shall futurely, upon his conformity to this reformation, make 30 shillings ; and he that justly may take no benefit, shall lawfully be allowed a portion.

That this shall turn to the further good of the Common Weale, it must needs follow, for hereby lands, meadows, pastures, arable, and woods, by which are maintained cattle, corn increased, and all necessaries for man's relief will be multiplied.

That it shall be much to the profit of his Majesty cannot be doubted ; for, upon the divisions of these places, whereas now his Majesty hath not only no profit, but is charged with the maintenance of lodges, pails, rails, wages, and other allowances, there will arise a greater portion and more valuable per ann. in the remote places of the kingdom than I dare aim at. And yet the people have due contentment in their allotments.

An objection may here arise, that if forests and chaces should be improved, the game should discontinue, and so his Majesty be deprived of that part of his princely recreation.

His Majesty having in himself power to give way, or restrain, may permit or inhibit what, where, and in what manner it shall please his Majesty. It is not intended that any forest, park, or chace shall be dealt  
withall,

withall, but such as his Majesty shall give princely allowance unto; for he is neither a good subject, nor hath any civil understanding, that in heart desireth, much less that seeketh, to abridge his Majesty of the least of his princely recreations.

It seemeth that former times provided for those kind of improvements, and that for every Common Lord of a Manor, as appeareth in the time of Henry the 3d, in the statute of Merton; in Edward the 1st's time by the statute of Westminster, and since. Much more may his Majesty improve these kinds of grounds, both by the said statutes and his royal prerogative.

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No. III.

*AN Account of the benefits which would arise from the inclosing, and improving the Forests, Parks, and Chaces belonging to the Crown, not only to the publick in general, but to the respective claimants interested therein, as the same were set forth, and explained by the Ministers and Officers of his late Majesty King James the 1st, in their many attempts made to inclose the same.*

THE forests, if inclosed, would be more secure for travellers, more profitable for the inhabitants, and more beneficial for the Commonwealth. Whatsoever benefit arises uncertainly, of what yearly value soever, if this benefit may be increased and made certain, without prejudice to any, there is neither reason nor common sense in him that opposes it. These waste grounds, as now they are used, yield not to any, that certain, or uttermost value they justly may; therefore, to alter the use of them, and make them more profitable to those particular men whom they concern, and to the whole weale publick, is a lawful, a charitable, and, consequently, a work most worthy, and of no danger. And if reason and com-  
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mon sense allow it, law cannot but allow it. *Lex plus laudatur, quando ratione probatur.* It cannot be denied that wafts and commons are of some use in the maintenance of families; yet, as manurable lands are of much more, to continue the former in the same state would be, to continue an inconvenience, that a mischief should grow. The inclosures already made have been made by degrees, as the kingdom increased in people; and as they have increased, commons and wafts have decreased; but if they had not been found more profitable, the inclosing them had been a needless trouble, and a superfluous charge. The three principal arguments made use of to maintain commons, ANTIQUITY, the MULTITUDE, and a COMBINED CONSENT, are pillars that support many abandonable customs, and each of them rather infers and implies an error than a truth; but leaving to prove it, as too apparent, and impertinent to the present purpose, it is certain that if inclosures are more serviceable (as is allowed) they are to be preferred to commons, whose use is only to pasture cattle, of little or no profit to the owners:—and in a miserable case they must be, who have no other pasture for their milch kyne, and labouring oxen; for one cow well kept, in grounds inclosed, is worth, in profit, two pasturing in common; and one ox well fed in grounds, will perform more strong labour than two commoners. The more commons are continued, the less remains for tillage, mowing grounds, and fit pasture for feeding cattle for dyet. And though there are sufficient supplies (for money) of beef and mutton for many, yet the poorer sort, by the excessive prices of those kinds of victual, find not sufficient of either; but if the means to feed were increased, the prices thereof would decrease; then the poor labouring man, that is now forced to feed on roots, and other weak food, might sometimes be refreshed with these kinds of more strong and nourishing meats. If it be objected that the farmers would suffer, if, through abundance, the prices should fall, the argument proves too much, for by this reason it were best to make a less number of inclosures to make sustenance dearer, that farmers might become richer, by oppressing the poor, with unconscionable rates of the things they sell for human relief. It is not the increase of inclosures and improving of wafts that would make farmers less, but more able to afford more reasonable prices of all their vendibles, and to maintain their  
estates,



estates, as well as now they do; for so long as human creatures increase, there may be a want of means to relieve them, but never of means to vend what the earth yields for food. But to return to the subject, It is allowed that two acres of land inclosed are worth three in common fields (so that these were much better inclosed), and 40 acres in common fields better than a hundred in a waste common, if the land in both cases be of equal goodness. Inclosures then are better than common grounds by almost one half. Can it be a doubt then whether they should be inclosed, since the Commonwealth looſeth near £. 1000 in £. 2000? Perhaps it may be said it were better they were inclosed, yet not best to inclose them, because innovations are harsh and distastful to the multitude: but admit a man were born blind, or deaf, or lame, would he distaste it that he should be made to see, hear, or to go sound, because it were a novelty to him to enjoy the benefit that before he had not? And if the Commonwealth have some long and lingering disease, is he a good subject that shall repine that it shall be cured because it is an innovation? Or were it better to leave the multitude wallowing in their own preposterous humours, and for fear of their distasting or mistaking a public benefit, not to project, practice, or publish any thing but what they affect? As to the difficulties which may be apprehended in the execution of the scheme, the insurrection made against inclosures in Northamptonshire cannot be induced, as a precedent, as it was grounded upon a far different occasion; for that was against such inclosures as had been made by some who sought thereby only their own gain, by the depopulation of towns, and expelling men out of their dwellings, and converting tillage to pasture, less worthy to live than thieves; but the traytors went not free of punishment in that insurrection, because they took upon them to reform that which belongeth to him that beareth the sword, to correct offenders. But this shall not only not depopulate, but people places now unpeopled, and shall not only not be done against mens wills (that are capable of their own good) but with their good conceits and consent; not to their disadvantage, but to their unspeakable commodity; not hurting or hindering any, but helping the meanest with the greatest, and the Commonweale most.

It is alledged that a Lord of a Manor adjoining to a forest, has not only  
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a right of common on account of his own demesnes, but demises his leased tenements and fines his customarys far more profitably in regard of the general common of pasture; but it is certain that if the Lord had that portion of land, laid out to his own disposition, which he is entitled to in right of common, he might convert it to much greater profit, and if his tenants, had the like allotment, their tenements would be much more valuable, and consequently, the rents and fines higher. They pay now according to the supposed value of their tenements, and by how much they are benefited yearly by their commons, by so much pay they more rent and fine. This therefore alters the case of their ease or hurt; it is plain from the foregoing reasons that all parties concerned would be gainers by inclosing, as each would have £. 4 for £. 3 in their several proportions: but if Lords of Manors, by their greatness, usurp a greater proportion of common than may lawfully be allowed them, they will no doubt strain a point of curiosity and suffer others to go before them in giving consent, whom they cannot restrain. And to maintain their own extortions, being popular, will draw back and dissuade their weak neighbours, who otherwise would willingly come on, and further the intention, for it hath ever been observed that in these popular actions one perverse man may seduce a multitude, and a good cause hath commonly the multitude enemy: with whom neither reason nor law, but a lawless will beareth with or against the best or worst intention, after a preposterous manner. It is objected to the inclosing the wafts, that though it may perhaps be lawful, yet some matters lawful are not only not expedient, but uncharitable, and injurious, as taking the uttermost forfeiture of a bond or covenant for some small breach of the condition, &c. but the case of inclosing differs far from these instances, for that with the lawfulness, it brings profit both private and common. No man shall be injured by it, but each have this peculiar advantage according to the nature of his claim, which is doing good to all, without lawfully hurting any.

The spacious forests, chaces, and wafts in England, if Royal consent and the vulgar whom it concerns were conformable, might be improved to upwards of two millions per ann. And let all the benefits that are at this day, *viis et modis*, made, by all the Lords and Inter-commoners in England,

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of all the wafts within the same be laid in a ballance, and less than one fourth part of a million will more than counterweigh them all ; so that the Commonwealth loofeth near seven parts of eight. Suppose an instance of a waste of 5000, to which admit to belong 500 commoners (which were very much, for there are wafts of 40,000 acres that are not charged with so many), and suppose 450 of these commoners have each 40 acres of manurable land in his possession, and the other fifty being cottagers, to have 5 acres each, the whole then of their manurable lands will amount to 17,250 acres ; more than three times the quantity of their common. Each commoner ought to keep no more cattle in summer than he can keep in the winter with the produce of the lands in right whereof he claims common of pasture. As tillage is the most necessary and most profitable method of occupying land, each farmer of 40 acres assisted with the common of pasture may be allowed yearly to sow 15 acres and to fallow 7, to manure which 4 horses must be kept at two loads of hay each per ann. If there are 6 milch kine kept at one load of hay each per ann. the 14 loads of hay will require 10 acres of meadow, so there only remains 8 acres for in-pasture for kine and labouring cattle, that are not wholly to rely upon the commons ; if then the cattle being only 10, eat up the most part of the hay and straw raised upon the 40 acres, what other profit can arise by the common except from young cattle and foaling mares, which are generally almost starved and very little worth ? But allow each farm of 40 acres 10 such beasts, to be fed on the common, which is almost a beast to every acre, they cannot be valued at above 3s. 4d. per beasts leaze, which is about 3s. 6d. per acre, so the whole 5000 acres yield about £.866 per ann. And the proportion arising to each tenement of 40 acres for their respective 10 acres of common, is 33s. 4d. These wafts if inclosed would be worth at least ten shillings an acre, but in their present situation (if the truth were known) scarce half what they are valued at above ; so there is lost at least £.2000 per ann. by suffering these 5000 acres to lie common. What a masse of wealth then does the Commonwealth loose by all the waft grounds in the kingdom ?

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of perverse men, who may, and will not, understand reason, nor entertain a benefit offered them; and it is therefore not fit, that matters of publick good should rest the consultation and determination of such as afore resolve wilfully to withstand it, not knowing truly what they oppose. And were the people satisfied of the convenience of inclosing, it may be proved that for every 20 shillings that any one now enjoys he shall be secured 26s. 8d. at least; and the poorest that dwell upon the wafts, that now stand in nature of trespassers, against all the lawfull commoners, not having right to a foot, shall have a portion secured them to inclose about their cottages, to raise herbs and roots, keep a cow, and sow some corn for their better relief. And if these probabilities cannot satisfy them, let as many as are suspicious that this shall not be performed give up and disclaim their common, and their yearly approved benefits shall be increased so much as before mentioned in money, if they refuse the lands allotted. And the advantage will be the same to all the parties concerned, whether the lands be worth ten shillings or but sixpence per acre when inclosed. After every intercommoner has his proportion thus allotted; the remainder shall go to the owner or owners of the soil. That the Lords or owners of the soil, who before had nothing, will hereby sometimes have a greater share than any intercommoner, is an objection that can only be made by such as are like that envious man who was content to lose one of his eyes that his neighbour might lose both his. And if commoners did truly conceive what power Lords of Wafts have, and that they would take benefit of their power, they would be more content to divide and yield their Lords a share willingly. The statute of Merton made in the time of King Hen. III. and the statute of Westminster made in Edward the 1st's time, give power unto Lords and owners of waste grounds, wood or pasture; notwithstanding the contradiction of the tenants to improve a part. And as the Lord cannot be judge in this case what is sufficient for the commoners, so are the tenants restrained by authority of the said acts, that they shall not wilfully withstand the meaning of the statutes in that point, and therefore are there indifferent judges provided to determine the question between the owner and his tenants and commoners, namely, the next Justices of Peace, upon  
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the commoners just complaint. Should the Lords put this statute into execution, and the commoners, instead of applying to the Justices, pull down the inclosures, that were the way, if their cause were good, to make it ill; for the Parliament hath provided that the offenders shall be indicted, and punished by common law, or censured in a higher manner, to their greater terror. And if the fact be done covertly, so that the inhabitants of the parishes next adjacent cannot, or refuse, to discover the offenders, those parishes shall be distrained to make good the inclosures so cast down, that the Lord be not prejudiced by such a fact. And if the Lord usurps and incloses when it is known the tenants have little common, they shall be relieved by writ of Novel Disseizin, or upon complaint. The quantity sufficient for the commoners, is, as before mentioned, pasture for the cattle their tenements will keep in the winter. But if a man has common of pasture for a certain number of cattle by grant, covenant doth abrogate law, and he shall be allowed his grant notwithstanding the Lord's right to improve.

The law doth allow intercommoners to inclose some small parcels of waste, for certain necessary purposes near to tenements, but if the inclosures be to increase the quantity of their manurable lands, as to make several for arable, meadow, pasture or the like, the partie so offending looseth his right of common in the rest, but if it be upon a forest it may be taken from him as purpresture or assarted land. So he looseth his right to the rest of the waste, and remaineth without any available interest in what he hath inclosed. And if they were not restrained, however backward they may seem now to consent (being moved thereto) within few years there would be little waste ground in England through voluntary inclosing. To permit every man to inclose at pleasure, would be to feed the wills of the wilfull, and to admit a confusion, as each would contend for the most, and best, the strongest would oppress the weakest, and the Lords and owners giving up their rights and conniving at such proceeding, would breed an intolerable presumption in the incroachers, which they would imagine proceeded wholly from fear of their disloyalty, wherein they might break out into rebellious courses, if restrained of their wills. Therefore as the law hath provided for the security both of



Lords and commoners, they should go hand in hand, induced by law and reason, and none but men of stubborn condition and crooked affections will kick against a general good, or conceive it compulsion to be reasonably induced to yield that, which without reason they cannot apprehend, which is the reason that they hold him too officious who endeavours to open their eyes; that uncharitable, which may not wholly redound to satisfy their perverse wills, that not profitable, whereof others partake with them of the benefit. But among many, some will oppose the best intention, not for any evil they apprehend therein, but to become famous; persuading themselves that to consent to that, which the wisest (the whole senate of Parliament) have provided, is an argument of pusillanimity, the contrary, magnanimity. Greatest spirits not guided by duty, are soonest misled by the multitude. And in a foolish opinion of their own singularity, attempt, and often perpetrate, most dangerous and impious actions, not considering the beginning, observing the proceeding, or foreseeing the end. Neglecting experience, and preventing public utility, they shoot at others and wound themselves. If the commoners would be made sensible of the benefit of inclosing, they would petition the owners for leave to inclose, upon such conditions as would benefit all parties. Our forefathers did in great measure, what we oppose in the smallest, and that, in an age when through the increase of people and of the prices of provisions, it is more necessary; though this is a disputable point as appears by the books of fifteenths in every shire which mention infinite places not now to be found, and by the scites and apparent places where many townships, villages, &c. have been; some of which are worn into the sea; but more overgrown with woods. But admitting there were as many people in former times, it is probable there were more manurable grounds, as appears (omitting a whole country depopulated to a forest, the New Forest in Hampshire) from places overgrown with bushes, and antient remains of inclosure of places, abandoned no doubt in the Barons tumults, &c. Also from the infinite purprestures, and assarted lands, many of which have been lately found out and recovered. Had it been formerly, or were it now, lawful to inclose, for all that would attempt it, they would neither complain of unlawfulness, uncharitableness,



ritableness, or danger. Nor will they learn from experience, where many large wafts have been inclosed by consent, and the Lords and commoners having found the sweetness of the change, would not return to the antient course of common, and relinquish their inned grounds, for four times the value they before received.

The time hath been when whole shires have been in nature of fforest ground. If there had always been such a backwardness to inclose, great part of England had been little better than a mere wilderness at this day. The first mover in the execution of this scheme must be the owner, who has no power to proceed without the 2d, namely, commoners, nor can they, without the 1st. The 3d, most to be respected, namely, the publick weale, takes no benefit without the mutual concurrence of the 1st, and 2d, if either of whom be so perverse and wilfull, that they will not consent upon reasonable conditions, but that the Commonwealth must endure the loss of benefits, through the obstinacy of one, or more, whether were it not fit that the superior power should COMPEL, where is wilfull and causeless refusal? The life of the commonweale depends upon corn and cattle; these are the vital nutriment, without which the veins and nerves cannot be succoured and relieved. Both the owners and commoners are now in a kind of bondage, with regard to the wafts, having neither power to plow, mow, or plant. Were they enfranchised, every one might convert his allotment to what use he pleased. It is not now in England as it was in Palestine, in Abraham and Lot's time, when they could say to each other take thy flocks and pasture on the right or left hand. We are so multiplied that there is scarce land to contain, or means to feed us; a little piece of land, less than the breadth of a grave, breeds great suits in law; and shall we neglect so good a means to increase the quantity? There is an universal hunger to increase lands by purchase, and none will further this augmentation which would be easily purchased, by little endeavour, and less charge. Buildings increase within this few years more than in as many ages before; yet two or three families are thrust into one hovel. The convenience and welfare of single persons or families affects that of the State. An acre of corn, a cow, or a sheep, are little regarded, but by multitudes of these the nation is maintained, and by their defects impoverished.

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Let the year be never so seasonable, and the harvest plentiful, the dearth of provisions continues. Whatever this arises from, as the people increase, there must be provision made of more victual. What should we have done in the late small dearths if foreign supplies had failed? (which yet greatly diminished our coin.) Many and worthy laws have been made in Queen Elizabeth's time, and by his Majesty (K. J. I.) to encourage tillage, meadow, and pasture, but are not executed.

There are more acres of waste grounds in England than two of the largest shires (Yorkshire excepted) contain; these two shires cannot contain less than 500 parishes, each parish at least 300 people, all fed and relieved within the same; so that these commons, besides what should be allotted to ordinary commoners, would maintain 50,000 people, for whom there might be farms, villages, parishes, and seignories raised, beneficial to the publick, honourable to the age, and pleasing to God. It will be objected that the poor, who have built houses upon these wafts, will suffer greatest wrong, because they have no right to the places where they have settled; but whereas they now dwell in woods and deserts, as abandoned and forlorn men, deprived of the means to learn to know God, or their duties to MAGISTRATES, and live like drones, devoted to thievery, among whom are bred the very spawn of vagabonds and rogues, they shall be instructed, civilized, and better maintained. The civilizing these unhappy persons, and instructing them in moral and religious duties, is one strong argument in favour of inclosing the wafts and commons. And these poor people, who have not now, in due right, the breadth of a foot, shall have allotted them a competent portion for their manurance, without fine, and for small rent. They indeed will murmur, and oppose the intention, not out of ignorance, but a malicious stubbornness, notwithstanding the advantage they will receive thereby. Lastly there will be objection made in a point more worthy to be considered, that if forests and chaces be inclosed, his Majesty and succeeding Princes would be deprived of that princely recreation HUNTING, for which purpose forests and chaces were provided and maintained, and provision made that none should disturb, much less destroy, the Royal game, appeareth by the *Charta de Foresta*. Therefore this intention is not unreverently to abridge the places fit for  
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princely sport. No place fit to be continued, in princely opinion, for the sole maintenance of that kind of game, is in any way aimed at to be converted. But such forests and chaces only as being so far remote from any seate royal as cannot be conveniently visited by his Majesty, without greater travail and trouble than the delight can countervail. If it be further objected that the most remote may be sometimes used, we can hardly be so disloyally conceited of princely judgment, that, that will not be allowed which will be so beneficial, and all means for Royal recreations (which no one ought to dare to limit) at large reserved. And it only resteth in Royal election to continue or discontinue what, where, how much, and in what manner, shall seem best, and most sufficient, in princely understanding.

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No. IV.

*Copy of the Indenture of Annexation under the Great Seal of England, dated 8th May, 7 Ja. I. Printed from the Copy in the Collection of Sir Julius Cæsar.*

**T**HIS Indenture made the eighth daie of Maie in the yeares of the raigne of our soveraigne Lorde James by the grace of God Kinge of England Scotland Fraunce and Ireland Defendor of the Faithe &c. that is to saie of England Fraunce and Ireland the seventh and of Scotland the two and fortith, BETWENE our said soveraigne Lorde the Kinge's Majestie on the one parte, and Thomas Lorde Ellesmere Lord Chauncellor of Englande, Robert Erle of Salisbury Lord High Threar. of Englande, Henry Erle of Northton. Lord Keeper of his Majesties Privy Seale, Lodowick Duke of Lenneox, Charles Erle of Nottingham Lorde Highe Admirall of Englande, Thomas Erle of Suffolk Lord Chamberleine of his Majesties housholde, Gilberte Erle Shrewesbury, Edwarde Erle of Worcester Master of his Majesties Horse, Thomas Erle of Exeter, John Erle of Marre, George Erle of Dunbarre Lorde Threar. of Scotland, Edwarde  
Lorde

Lorde Zouche, William Lorde Knollys Threar. of his Majesties Houfholde, Edward Lorde Wootton Comptroller of his Majesties Houfholde, John Lorde Stanhope Vice Chamberleine of his Majesties Houfholde, Edward Lord Bruce of Kinloffe Master of the Rolls, Sir John Herbert Knighte Second Secretarie of State, *Sir Julius Cæsar Knighte Chancellor and Under Threar. of his Majesties Exchequer*, and Sir Thomas Parry Knighte Chancellor of his Majesties Duchie of Lancaster, beinge all of his Majesties Privie Councell on the other part. As IT HATHE been ever helde most juste and necessarie (by all laws divine and humane) for every master in his private family to use his beste endeavours to increase and enlarge the estate of him and his posteritie (in so much as the Holie Scrip'tures condemne them that neglecte the same); soe it is certaine, that there is a greater care and providence expected at their handes, that are on earth God's images and comon parente of the people and countrie, for establisshment of their estate, then of anie private fortune. In which consideration it hath pleased his Majestie, (whose power and dignitie is superiour to all his predecessors, both in the true and juste enumeration of annointed Kinges in his Roiall pedigree, wherein he easelie exceedeth all the princes of the worlde, and in the union and conjunction of two mighty kingdoms confirmed in his owne person, which none of his roiall progenitors could ever see;) to be thincke himselfe, how his former purpose may be accomplished, of annexinge a roiall quantetie of houses pallaces, manors forrestes parks chaces and other possessions (inseparable from the crown) by renewinge and reforminge the indenture which (beinge formerly recommended to be passed in the Parliament) had so manie exceptions made against it, as it neither hath, nor is like to take effect in that kind: and therefore because some lands and tenements were inserted, by errors of inferior Ministers, which were formerly disposed from the Crowne, and some other possessions were delivered for lands improveable, which were no better than drie rentes, some principall manors were omitted, and some manors so ill distinguished (beinge all one in appellation with others of the subjects) as it mighte have bredd some question hereafter: IT HATHE now pleased his Majestie (for wisdom and constancie the mirrour of Kinges) after a more exacte serch and consideration  
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of manie particulars, to give life to his former resolutions, by making this newe deede of annexation, which doth containe in the whole a greater quantetie of landes and renews, then was before intended, and many of those of better values and greatnes in their severall natures, with addition of other goodly houses honors and possessions, which were not comprized in the precedent indenture of annexation: and insteade thereof to leave out some other lands of inferior qualitie, as mylles, rectories, impropriate chauntries, and such like; with some other meaner mannors and quilletts, whereof his Majestie hath made use, and must doe more for diverse juste and necessary occasions; FOR ALTHOUGH it be trewe that his Majestie hath been so carefull and providente for his posteritie, as he hath made his receipts and renews greater than he found them; yet is his Majestie still burthened with manie greate debtes and interest for them, in regarde of diverse greate paymentes, which he hathe made of severall somes owinge by the late Quene Elizabeth (his sister of famous memorie) both for redemption of that goodly portion of landes which was mortgaged by her to the citie of London for payment of her debts to the armie in Irelande, and other somes due upon the exchange for copper moneys uttered in her time, with manie other charges fallen out since, bothe for her funerall, for the Kinge and Quene's moste happy and roiall attire, for their coronation, for increase of his navie, for supplie of his magazines, for entertainement of forren Princes that came to visite him, and for manie greate expences upon forren Embassadors and Commissioners (some sente to congratulate some to negotiate) with manie such like occasions, as are inseparable from the honor and splendour of such a monarch, who (out of bountie and greatnes alsoe) was tied to rewarde manie antient and faithfull servantes at his firste comienge to the Crowne. All which greate and necessary chardges beinge added to the vaste expence, which his Majestie was put to, for the paye of a greate army in Ireland, for the space of fower whole yeares after he came to the Crowne, mainteyned onelie for the better brideling of manie thousands of ill-disposed persons in that kingdome, that attended nothinge but some newe opportunitie to expresse their inveterate malice to the religion established, and common peace intended; where his Majestie after he had made abatement of some of the



forces (as the time gave cause) was againe constrained uppon a newe rebellion in Ulster to transport newe forces into that kingdom haveinge acquired (by that timely prosecution and by God's mercifull favour and blessing) such an universal obedience and possession as none of his Majesties roiall predecessors ever had or could before enjoye in Irelande: it mai well be conceived that his owne estate (notwithstandinge those helps which he hath had from his subiectes) muste remaine extreamely burthened and incumbered; and further where his Majestie foreseeinge well, that the final endes of all such general revoltes depended not upon the suppressinge of the rebellion it selfe, but in removeinge the rootes and occasions of new troubles, hath found it necessarie to make an orderly plantation of civile subiects, in their roomes that have only eaten the breade of barbarousnes and disobedience, and (for securinge of that roiall and pious worke) resolveth to continue still, some extraordinary forces in that kingdom, where there is greate hope (by transplantinge some of the Irishes, by expulsion of others and by protectinge the honeste subiecte nowe to be sente over) that rebellion shall hereafter give place to loyalty; ignorance and impietie to religion and civilitie; for as much as his Majestie for maintenance thereof, and for discharge of the greate debts he oweth for the expences aforesaide (whereof the whole charge hath not bene so little every way as tenn hundreth thousand poundes, besides all other ordenarie paymentes growinge due from time to time for maintenance of his crowne and dignitie) shall be constrained to raise some money by sale of some such landes (only in fee farme) as are not contained in the schedules of this presente indenture of annexation; both for the preservation of the antient honour of his worde and contracte (both abroad and at home) by the breach whereof manie Princes have received greate prejudice, and for preventinge manie other inconveniencies which are incident to all Princes and States that are unprovided of treasure: IT HATH pleased his most excellent Majestie for removeinge of those feares and jealousies that might arise in anie of his subiectes mindes, which have contracted, or shall contracte for anie of those possessions which were before intended to be annexed, to declare hereby that he hath wittingly and willingly revoked determined dissolved and cancelled, and by these presente doth absolutely revoke determine



mine dissolve and make voide, both the former indentures and schedules thereunto annexed, and the annexation it selfe thereby intended and made; and doth free the purchasers that have or shall passe anie of those parcells which were contained within the saide former annexation and schedules, and are omitted out of this, from anie other claime or exception by him his heirs or successors, whither it be for mannors mylles rectories chauntries farmes and quilletts or anie other thinges whatsoever; lettinge all his loveinge subjectes knowe that they are folde and disposed with his Majesties privitie and expresse warrante, and full consente; and that the purchasers shall as absolutely and freely enjoye the same, as if they hadd never bene putt into the former deede of annexation. And nowe his Majestie haveinge for the reasons aforefaide, wholie and absolutely taken awaie and made voide the saide former annexation, hath by advise of his Privie Councell, in seaven and forty schedules hereunto annexed, named, and distinctly sett downe and expresse, diverse honors, castles, pallaces, manors, parkes, forestes, chaces, landes, tenementes and other hereditamentes, which his Highnes doth annexe and unite by these presentes to the imperiall crowne of this realme; and therefore doth hereby assure and promise to the Lordes and others parties to these presentes, that the same, nor anie part thereof shall at any time hereafter be diminished, impaired, aliened, folde, or conveyed awaie from the crowne, otherwise then for such necessary and importante causes, and in such sorte, manner, and forme as hereafter in these presentes is limitted and appointed. By all which his memorable acts, as he hathe soughte (like a wise pilott) so to moare his imperiall shippe with cable and anchor answerable to her burthen, that his people neede not to feare to be further pressed then is usual for loveinge subjectes towards the supporte of those flourishinge branches of the roiall olive, under whose shadowe they are like to enjoy the blessed fruites of religion, and justice; soe doth he not forgett (in the dignitie and honor of his person) *to reserve unto himself* (without note of contradiction or inconstancie) *full power to dispose of those possessions*, these presentes alsoe annexed upon juste, honourable, and publike considerations: and therefore his Majestie doth herebie declare and agree with the saide Lordes and others of his Privie Councell (that are parties

to these presentes and everie of them) that in case of warres, increase of issue, or such like considerations of State (wherein the benefit or utilitie of private men is not the motive or end) he doth not intende foe to conclude himselfe hereby, but that he will make use of those terrestriall goodes and fortunes, whereof both lawe and nature have made him as absolute an owner, as anie other his progenitors. And yet, because he maie be the more assured to be informed and advised, whensoever there shall be question of anie such alteration, and foe be the more justly served in the execution, his Majestie vouchsafeth hereby to promise (in VERBO REGIO) as well to himselfe, as to the saide Lordes and others whome he is pleased to make parties to this deede, that nothinge shall be changed or altered in this instrument before the cause thereof and the end shall be particularly certified to his Majestie, under the handes of eighte of his Privy Councell (whereof the Lorde Chancellor Lorde Threar. and Lord Privye Seale to be three) excepte it be for such things onely as shall be donne by the ordinary Commissioners usually granted to the Lorde Threar. of England and Chancellor of the Exchequer for makinge ordenarie leases at the accustomed rente uppon surrender of the tennants for 21 years or three lives, and such other things as are, or shall be comitted to them by commission, for the good of his own service and the quiett and contentmente of his tenants; which they shall and maie use accordinge to the antient usage and custome of the Exchequier, and such commissions as shall in that behalfe be granted unto them, notwithstandinge anie clause or covenante in this presente deede or declaration contained. And further because his Majestie maie in some cases finde it necessary for his service to grante some leases in reversion upon good and valuable considerations in money, rather then to passe any greater quantitie of landes in fee farme, then of necessity he muste: his Majestie doth hereby also declare, that he intendeth to give power and authoritie (as occasion shall serve) to some selected Commissioners under his greateseale for grantinge some such further states, in reversion of some parte of these landes thus annexed. PROVIDED alwaies that no such state be added in reversion, as may make anie further terme then threescor years in the whole, beirge joined to the yeares in possession. And because that some of the castles and houses mentioned in the schedules

to these presentes annexed are or maie be very ruinous, and of no use to his Majestie either for defence or habitation, and yet doe and will bringe a greate and continual charge to the Crowne, in allowance of yerely fees, and somes of money, for the keepeinge, and repairinge of the same. His Majestie therefore doth reserve unto himselfe free libertie (with the advise of anie fixe or more of his Privy Councell whereof the Lorde Threar. of Englande for the time beinge to be alwaies one) so to dispose of anie such castles or houses so ruinous or unserviceable, as shall be founde mosse for the ease of charge and profit of the Crowne: AND FURTHER whereas his Majestie hath already by his Commissioners for sale of his Highnes landes, made a bargaine and contracte with Sir Thomas Vavasor his Knighte Marshall, Peter Vanlore, Arthur Ingram and others, for the sale of soe manie of his Majesties mills in fee farm as shall amounte to the cleare yerely value of fiftene hundreth poundes by the yeare, to be taken at their choise out of all his Majesties mylls (exceptinge onely such mills as are parcell of the possessions of the Duchie of Cornewall or belonginge to the mannor of Launceston in the county of Cornewall or belonginge to the mannor of Bromefield and Yale or either of them in the county of Denbigh, and hath receaved all or the greateste parte of the price of them already in hande; and therefore all the saide mills (except before excepted) should have bene omitted out of this annexation, but by reason diverse of them did runne jointly with mannors and lands that are contained in the schedules hereunto annexed under one rente, they coulde not be well divided without survaies to apportion the parcellis and valewes, which coulde not be performed with such expedition as this presente annexation required. his Majestie doth therefore declare by these presentes that his true intente and meaninge is, that none of his saide mills, that are or maie seem to be contained in the schedules to these presentes annexed or anie of them, shall be taken to be united to the crowne of this realme; but that the same or anie of them (excepte as before is excepted) may be conveyed and passed awaie from the crowne, and boughte and enjoyed by the said contractors, or anie other his Majesties subjectes, anie thinge in these presentes contained to the contrary in anie wise notwithstandinge. Of all which his Majesties cleare and princely intention (wherein he  
hath

hath so delineated and described the true methode and maxims of a juste and moderate governmente) seeinge he hath vouchsafed to yelde to his humble and faithfull counsellors and servantes more particular participation than to anie other. The Lords and others of his Majesties Privy Councell (that are parties to these presentes) doe hereby professë, that they and every of them are resolved for their partes, and do both accordingly promise and covenante by these presentes under their handes and seales, to and with their said Sovereigne Lorde the Kinge's Majestie, that they will not onely remaine true and constante to his Majesties judiciall course, and their owne counsellors, herein from attemptinge anie suit or motion to the breach of these conditions in this annexation; but will dissuade and hinder (to the uttermoste of their power) all other persons that shall goe aboute to violate the same; whereof his Majestie dothe also hereby declare that he will bothe expecte and challenge stricte observation. In witnes whereof to the one pte. of these indentures remayninge with the saide Lord Chauncellor, Lorde Threar. Lorde Keeper of his Majesties Privy Seale, Duke of Lennox, Erle of Nottingham, Erle of Suffolke, Erle of Shroesbury, Erle of Worcester, Erle of Exeter, Erle of Marre, Erle of Dunbarre, Lorde Zouch, Lorde Knollis, Lorde Wootton, Lorde Stanhope, Lorde Bruce, Sir John Herbert, Sir Julius Cæsar, and Sir Thomas Parry, our saide Sovereigne Lorde the Kinge hath caused the greate seale of Englande to be putt; and to the other parte of these indentures, remayinge with our saide Sovereigne Lorde the Kinge, the saide Lord Chauncellor, Lorde Threar. Lorde Keeper of his Majesties Privy Seale, and others the parties abovesaid, have putt their handes and seales yeoven the daie and yeare first above written.

## No. V.

*Lord Hale's Treatise on the Management of the King's Revenue.*

I. **T**HE King hath several small rents arising dispersedly, some out of whole townships, some out of particular lands. They are for the most part known by these names, viz.—1. Vicountiel rents, which arise to a pretty sum, but are successively lost, because they are but small, and not well known where to be levied. These are under the Sheriff's collection, and are for the most part within the charge of the pipe.—2. Chantry rents, arising by small sums of 6d. 12d. 2d. &c. out of several lands; and these are within the charge of receivers and auditors, and in respect of their smallness, distance, and uncertainty of the things charged, being rents in gross, and rarely parcel of any manor, nor yet farm rents, only arise to about £.6000 per annum.

These rents indeed are rather a burthen to the King than a profit—1. in respect of the charge of their collection—2. in respect of their obnoxiousness to be lost.

And they are a charge to the people many times five times the rent; for if they chance to be behind, the officer distraining exacts more for the distress than the rent comes unto; and many times the charge of the acquittance or bringing of the rent to the audit is more than the rent comes to. And for the vicontiels they are a charge to the sheriff in collecting, which one time or other is cast upon the King.

I could wish, that these small rents and rents of this nature were exposed to sale and sold \*. The King might sell them to the owners of the lands chargeable

\* Lord Hale makes a like proposal in the printed treatise by him on Sheriffs Accounts. See p. 108.—The proposal has been executed in part, 1. under the acts which were passed in the reign of Charles II. to facilitate the sale of fee-farm and other rents of the crown, such as Lord Hale refers to; and 2. under an act of the present

chargeable with them at as good rates as they are worth, or I am sure a better value than they are of being kept.

But I would not have the King's revenue impaired thereby, but the same to be forthwith laid out in purchase of demesne lands, which may be set from seven years to seven years at a rack rent.

This rent will every seven years improve and amend, as trading commerce and people increase; whereas quit-rents stand at a stay, whatever improvement fall upon land. And hence it is, that those quit rents, which possibly at the first reformation bore a third or fourth part of the value of the lands out of which they were reserved, are not now the fortieth nor the hundredth part thereof. Besides, this could not be lost, as the quit-rents are, and is a more honourable and profitable revenue by much.

II. I could wish some of the King's parks, forests, and chaces were improved. But then I think, that none of the King's demesnes, nor any of his lands that are not parcel of manors, should not be lett out at small rents, and for lives or long terms of years; but that either they be lett at rack rents, or at least for such fines as would consist with a reservation of the full moiety of the value by the year, and for termes not exceeding twelve years at most. For most plainly the fines that are taken in these cases shrink to nothing, passing through so many hands before it comes into the Exchequer; and the King's yearly revenue of his lands is thereby reduced to very little. Whereas the antient demesnes and the new acquets of the crown, if thus improved, would arise to a stable, fixed, great, and honourable revenue, and would not be subject to that loss and flux that his other revenue is.

III. Touching lands left by the sea, we find very many and very troublesome suites; the subject vexed; that projectors make advantage, and the King bears the undeserved odium of it, and in conclusion gains nothing else by it. And yet it is possible, that vast improvements may

sent reign relative to fee-farm and other rents within the survey of the Duchy of Lancaster. See 22. Cha. 2. c. 6. 22. and 23. Cha. 2. c. 24. and 19 Geo. 3. c. 45.  
—EDITOR.



be gotten from the sea in success of time, which yet may be encroached by the adjacent owners. I think it may be a just and a profitable law, that those, that have been in possession of shoars and relict lands for forty years last past, should quietly enjoy them without question; and that there should be set up posts and marks round about the kingdom for the discrimination of what is now held from what shall be afterwards acquired, to the end that what lyes without the extent of those bounds may unquestionably be the King's, excepting only such salt rivers, where the subject hath by grant or prescription the river itself, and consequently the *fluvialia incrementa*.

IV. I think these multitudes of officers, that are employed in the collecting and receiving the King's revenue, must be retrenched. The truth is, their multitude is a burthen both to the King and people; for the fashion hath always unhappily been, that, though new officers are made, yet the old are retained, and so the revenue shrinks while the officers swell.

I do not know, but that the whole inland revenue of the crown might be answered with one half and less of the officers that are employed in it; and a great part of it might be answered, as the monthly assessments were, which brought in their money roundly, and without that great charge and expence and uncertainty which we find in the ordinary way that is used. And yet upon *supers* retained upon accounts the same process might issue as now.

But to descend yet to more particulars.

(I.) I see not of what use the Treasurer's Remembrancer is, nor those several officers that are dependent upon it. The business of that office may with equal ease and greater convenience and certainty be dispatched by the King's Remembrancer and his officers; especially if those multitudes of English suits in the Exchequer-Chamber by English bill were abated, and a stricter hand used for the abridging of those suites to such only, as concern properly the King's revenue, the officers of the courts, and those that were really debtors accomptants or fee farmers under some considerable fee farm; for it is now apparent, that the great business of the King's Remembrancer's office are suits in the Ex-

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chequer-Chamber, purely concerning private persons and interests, wherein the King is little or nothing concerned; and all upon the fictitious titling of bills as debtors or accomptants, where really there is no such thing.

(2.) I see no great use of the several officers relating to the tenths and first-fruits. The whole business might be brought into the offices of the Auditors of the Revenue, and the King's Remembrancer, who might make out process in the same manner as the Remembrancer of the First Fruits doth; and the Auditors of the Revenue might take accounts, and the accounts might go in the ordinary track of other accounts in the Exchequer.

But if that revenue should continue in that separate method as now it is, yet there be two things, that would require a necessary amendment, viz. 1. The Receiver to be wholly taken away, as an unnecessary officer, unless it be to keep the King's money for his own benefit; for the receipt may as well be managed by the Remembrancer. 2. The accounts, especially of the tenths, are without any controll. They may well run down into the Pipe, as other accounts do.

(3.) There is a great defect in the tedious method of the Sheriffes and Receivers accounts; for they keep the King's money in their hands from the time of their receipt till their accounts passed, which is many times a year and more after it is received. If the revenue shall continue in that way of management, it were fit, that these Accomptants should pay in their money as they receive it, or be charged with interest to the King, after the rate of ten per cent. for the same, from the time of their respective receipts.

(4.) The Comptroller of the Pipe was instituted for a good end, and might be of good use. But as it is now managed, it is an empty piece of formality, and of no advantage. Let it be rectified, or taken away; and the best rectification would be what followes, for that would speedily retrench a multitude of offices.

(5.) There are at this day in the Exchequer many great officers, that receive the profit and fees of their office, and neither do not at all attend it, or know not what belongs to it, but only perchance once a  
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term fit with some formality in their gowns, but never put their hands to any business of their offices, nor indeed know not how. For instance, the King's Remembrancer, the Receiver and Remembrancer of the First Fruits, the Usher of the Exchequer, the Chief Marshall of the Exchequer, the Chamberlains of the Exchequer, the Chief Clerk of the Pipe, the Controller of the Pipe, and some of the Auditors that I could name. These, and some other nominal officers, are great men, enjoy their pleasures, understand not or attend not to their offices, but dispatch all by deputies; and by this means an unnecessary charge is drawn upon the King and his people, for the chief officer hath the profit, and the Deputy he hath some, or else he could not live. If these offices are not necessary, why are they continued? If they are, why should they not be executed at the charge only which accrues from the Deputy, and the benefit of the nominal officer that doth nothing be retrenched as a needless charge?

The things, that would be convenient in this business, which would possibly remedy it, are—1. To reduce the perquisites of these offices to such a medium, as might be sufficient for them that execute the business; and to pare off that superfluous redundance, which serves only to maintain an idle grandeur, that sits still and doth nothing but take the account of their perquisites at the terme's end.—2. That all persons, that are to be appointed officers in the Exchequer, be personally resident upon their office, and not to perform by deputy; and no office of this kind to be granted to be exercised *per* deputation.—3. That all these offices may be granted to men educated and experienced, and not to courtiers or great men.—4. That there be no sale of offices of this nature. I do speak it knowingly. The King loseth five times more by any such office that he sells, than the profit amounts to; and it is the dearest gratification of a courtier or servant that can be imagined, and of the greatest detriment to the King, when an office concerning the revenue is made the reward of that man's service that knows not how to use it. It were more profit to the King to bestow a pension to the value of the office to such a person; and when he hath done, to bestow the office freely upon an honest man that knowes how to use it. It is true,

I know, many offices are filled already in this kind ; and reversions upon reversions granted ; and an act to remedy it for the future only were to make a provision to begin the next age. It were worth a present provision, and an inspection to be made at present, and resumption by act of Parliament to remedy it, with allotment of some moderate pensions to those that would be removed upon this account ; and I believe the King nor people could be no losers by it.

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## No. VI.

*Copy of a Sign Manual of King Charles the II<sup>d</sup> for correcting certain abuses, relative to the Land Revenue.*

CHARLES R.

**R**IGHT trusty and well beloved Councillor, we greet you well.  
 Many inconveniencies daily appearing unto us, by sundry warrants obtained upon pretence of discoveries and concealments, whereby several sums of money that would be regularly paid into our Exchequer are drawne into private hands, and converted to private uses, and our Exchequer avoided, which is the proper place of receipt and discharge betwixt us and our subjects, and so the persons paying such moneys want their legal discharges, and become answerable again for the same sum : and whereas many other warrants are procured, about granting leases, and other estates in our lands, which are immediately directed to our Attorney or Solicitor General, without the knowledge of our High Treasurer, and without first having had any direction to the Surveyor General of our lands, or to our Auditors, to make out constats and particulars of those lands, expressing the state of them as hitherto they were granted, as likewise what is fit to be considered in the granting them ; all which is a declining the old frame of the Exchequer, and must be of ill consequence to our service : and least other principal things in point of our revenue, as in multiplying  
 pensions,

penions, and granting stewardships for life, which are to be but for pleasure, and in granting leases for longer time than wee have given order unto our High Treasurer of England—Wee have declared ourself that wee will not exceed one and thirty years; nor make any lease for lives; or in seeming to allow old debts not formerly stated; or to direct payment to be made upon such, which (for the present though never so just) cannot be complicit with. Our pleasure is that our principal Secretaries of State address the persons soliciting any business of this or to the like kind to our High Treasurer, or Chancellor of the Duchy therein, before you offer us any such; and that in all things concerning our revenues, that the opinion of our High Treasurer be first had, before you present any thing to us for our Royal signature; it conducing much to our service that whatever concerns our revenue move first from him, to whose charge wee have committed it; that so he may be liable to no importunities from suitors, as if he were disputing our pleasure after we had seemed to grant any thing; nor wee to retract what wee have granted; but that in all things of this nature, the dignity of the place of our High Treasurer, as it hath ever formerly been, may be preserved, and the old forme and laudable course of our Exchequer maintained, &c. And to the end this our pleasure be the better observed, wee require that this warrant be registred with both our Secretaries of State, the Master of our Requests, and our Attorney and Solicitor General. And our further pleasure is that our said High Treasurer, and Chancellor of our Duchy of Lancaster, take special care that no leases be granted of any manors themselves which have not been usually leased or demised, whereby the dependencies of our tenants may not be cut off from us. Given at our Court at Whitehall the 12th day of September, in the twelfth yeare of our reigne.

By his Majesty's command

EDW. NICHOLAS.

To our right trusty and well  
beloved Councillor Francis  
Lord Seymour Chancellor  
of our Duchy of Lancaster.

F I N I S.





E R R A T A.

- Page 5, line 7, for 100,100,100 read 10,000,000  
P. 8, line 9, for *discouraging* read *he discouraged*  
P. 22, line 8, for *poludes* read *patudes*  
P. 33, line 9, for *estreated* read *escheated*  
P. 52, line 17, after *that* insert *it*  
P. 68, line 14, read 1,610,000  
P. 89, line 16, read *diminution*  
P. 157, line 10, vice from *the* read from *their*  
P. 168, line 16, for *lost* read *spoiled*









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